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ABSTRACT

Written primarily from the employer's perspective, this report examines the issues involved in providing child care assistance as an employee benefit. Chapter 1 summarizes rapid changes in the work force that have produced employer involvement in child care arrangements. The major findings of the report are highlighted in Chapter 2, including the following: (1) the number of employers offering some child care services has doubled to 1,000 since 1982; (2) employers have misgivings about the cost of child care (especially on-site care) and are looking for other means of support such as benefits, flextime, and paternity leave; (3) labor unions generally have not pushed for child care benefits in contract negotiation because of the cost and relatively small number of members who would benefit; and (4) less than 4% of an employer's workforce would tend to use employer-assisted child care. In Chapter 3, an overview of developments in employer-supported care is presented, including a summary of studies that have measured benefits to employers. Labor union officials discuss their initiatives in the area in Chapter 4. Chapter 5 explores relevant tax issues, including an examination of Internal Revenue Service (IRS) press releases on standards for flexible benefit programs. Chapter 6 considers models of child care used by employers (i.e., on-site and off-site child care, information and referral services, parent seminars, family home care, and flexible benefit plans). Chapter 7 presents case studies of 10 employers' child care benefits, while chapter 8 deals with corporate officials' concerns about potential corporate liability. The development of personnel policies that can help employees with children is considered in chapter 9. Finally, appendices present a directory of child care resources and documentary materials such as IRS rulings, state tax laws, union bargaining proposals, and employer policies. (CB)

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A BNA Special Report

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EMPLOYERS AND CHILD CARE: DEVELOPMENT OF A NEW EMPLOYEE BENEFIT

A BNA SPECIAL REPORT

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I. INTRODUCTION

Family concerns are emerging as a potent force in the American workplace. Rapid changes in the labor force — particularly the entrance of large numbers of female workers — have resulted in increasing employer awareness of family concerns affecting workers

In recent years, socio-political forces resulted in increased employer assistance on health and retirement issues. Now, these forces are coming into play on family issues. In particular, helping employees locate and arrange for care of their children during working hours is evolving into a new type of employee benefit.

One look at demographic data explains the emergence of child care as a new employee benefit. Since World War II, the proportion of women who work outside the home has soared from 31.8 to 51 percent, and is continuing to grow. More than 42 percent of all American workers now are female. Two career couples have become the rule rather than the exception: by 1982, 56 percent of all wives were employed or seeking work outside the home.

And these women are likely to have children:

- In 1981, more than 42 percent of all women with children under age two were in the labor force. Half of all mothers with preschool children now work outside the home, compared with only one third in 1970.
- Almost two thirds of all mothers of school-age children are in the labor force.
- In 1980, more than half of all children in two-parent families had mothers who were working. Among children of single parents, the proportion with a working parent was even higher.
- Two thirds of mothers with children aged 6 to 13 are employed, four fifths of them full-time. As many as 6.5 million "latchkey kids" lack adult supervision before or after school.
- The number of children under age six is likely to increase sharply during the 1980s, climbing to more than 23 million by 1990.

The relationship of women to their work also is changing. More than half of all women in their childbearing years now work full-time, year round. Their earnings are of growing importance, now constituting 39 percent of their households' income. Increasingly, they work during pregnancy and return to work soon after giving birth. By 1977, nearly one third of all mothers with children less than six months old were back at work.

Inevitably, it would seem, child care is becoming a major employee concern. No longer can it be presumed that the wife, or another relative, will be available to care for the children. In order to attract and retain young workers, and perhaps also in an effort to increase productivity, employers are becoming involved in child care arrangements.

Yet, while many employers are considering child care benefits, few are actually providing them. Many firms are concerned that child care will become an

expensive benefit useful to only a small number of workers. Until recently, firms assisting employees with dependent care were usually paternalistic companies in which the chief executive took a personal interest in the issue. Similarly, labor unions avoided pressing for child care benefits in contract negotiations, opting instead for higher wages or for benefits usable by more members. Only in the hospital industry, where shortages of skilled nursing personnel were chronic, was child care embraced as an attraction in employee recruitment and retention.

But the situation may be changing. Experts in the field report that the number of employers offering some child care benefit to employees has doubled since 1982. Consultants are working with employers in cities across the country, and conferences and seminars on employer-supported child care have become common. Observes child care expert Phyllis Silverman of Catalyst, a non-profit organization concerned with working women: "Two years ago, most companies who called us just wanted introductory information. At this point, I'm getting calls and they really want to go ahead with something. In just a period of two years, it seems there's been a great change in attitude."

Just as interest in child care benefits is growing, however, new regulations proposed by the Internal Revenue Service may curb their development. On May 2, 1984, IRS announced restrictions on tax benefits, including deductions for child care, provided under certain kinds of flexible spending accounts. Since many employers provide child care assistance through such plans, restrictions on the plans may force employers to reconsider their willingness to provide a child care benefit.

This report examines the issues involved in providing child care assistance as an employee benefit.

The major findings of the report are highlighted in Chapter II. In Chapter III, experts in the employee benefit and child care fields present an overview of developments in employer-supported care. Labor union officials discuss their initiatives in the area in Chapter IV. Chapter V explores relevant tax issues, including an examination of the controversial IRS press release that invalidated some flexible benefit programs and the recently announced standards for such programs.

Chapter VI considers models of care, while Chapter VII looks at 10 different approaches currently used by employers. Many corporate officials interested in child care are concerned about potential corporate liability, which is dealt with in Chapter VIII. Development of personnel policies that can help employees with children is considered in Chapter IX.

Finally, the report contains appendices presenting documentary materials, including IRS rulings, state tax laws, union bargaining proposals, and employer policies. A directory of child care resources and an annotated bibliography offer sources for further research.

The following BNA staff members contributed to the preparation of this report: Sarah Crim, Linda Fernandez, Anthony Harris, Martha Kessler, Marilyn Modlin, Jake Newman, Sharon Rosolio, Gerald Silverman, Glenn Totten, Barney Tumey, John Walsh, and Julia Whitmore. Marc Levinson edited the report, and Levinson and Michael Levin-Epstein served as project coordinators.

II. HIGHLIGHTS

Employer support for child care has been one of the most widely heralded developments in employee relations in the past decade. Numerous articles in both technical and popular publications have promoted the concept that employers can operate child care centers to improve employee satisfaction and reduce absenteeism and turnover. At the same time, employers are coming under pressure from their workers to help them cope with the demands faced by working parents.

This special report examines efforts to provide child care assistance as a benefit of employment. Child care specialists, employee benefit experts, labor union officials, and corporate executives discuss issues faced by employers in developing appropriate child care programs. In addition, the report presents case studies of different approaches, including views on the advantages and disadvantages of each method.

Here are the major findings of the report:

- According to experts, the number of employers offering some child care benefit to workers has doubled since 1982. But only about 1,000 employers provide child care assistance to their employees, representing only a tiny fraction of all U.S. firms.
- In general, employers harbor serious misgivings about the cost of child care, and are seeking approaches to provide assistance at minimal expense.
- Employer-operated, on-site child care centers are the exception rather than the rule.
- Large employers are making increasing use of flexible benefit plans to provide child care benefits. This approach is favored because it allows employees without children to select other benefits instead.
- Large numbers of employers now are revising their personnel practices to facilitate child care through such measures as flextime, paternity leave, and adoption leave.
- One popular approach to providing child care assistance, the zero-balance reimbursement account, has encountered serious objections from the Internal Revenue Service.
- Labor unions generally have not pushed for child care benefits in contract negotiations because of the cost and the relatively small number of members who would benefit.
- Little sound analysis of the costs and benefits of child care assistance has been conducted, despite the great interest in the issue. Experts say many employers cannot correctly calculate the cost of providing the benefit because they do not know the value of space, employee time, and in-kind services that may be involved. The gains, such as improved morale and greater job satisfaction, generally have been documented subjectively.

• Some companies may provide benefits that do not meet their employees' needs because of inadequate needs assessment, according to professionals in the field. The most popular method of determining needs, an employee survey, may misrepresent true needs unless it is supplemented with other approaches.

• In general, less than 4 percent of an employer's workforce will utilize child care assistance supported by the employer.

Case Studies

Employers have adopted a wide variety of approaches to providing child care benefits to employees. This report examines the experiences of 10 employers who provide such benefits:

• New York State operates on-site centers for employees at 17 locations, meeting only a fraction of employee demand.

• Control Data Corp. formed a day care consortium in Minneapolis 14 years ago, but the center no longer is oriented towards employees.

• Zehntel's efforts succeeded in starting a center in Walnut Creek, Calif., but the center was forced to close when its building was sold.

• A unique partnership of labor, management, and government was instrumental in establishing a center in New York's Chinatown.

• Philip Crosby Associates finds that a placement agency offers the best approach for a small company in providing child care assistance.

• Information and counseling services help International Paper Co. provide assistance to headquarters employees at minimal cost.

• Minnesota Mining & Manufacturing has a full-time staff member coordinating child care assistance programs, including referrals, seminars, and care for sick children.

• At First Atlanta Corp., on-site care is under company control to ensure quality.

• Comerica, Inc., offers child care reimbursement through its flexible benefits plan.

• Humana Bayside Hospital in Virginia Beach, Va., supports a network of family child care homes as an alternative to center care, but the approach receives mixed reviews from a local bank.

III. DEVELOPMENTS IN EMPLOYER-SUPPORTED CHILD CARE

As increasing numbers of women enter the workforce, many observers have anticipated increased employer involvement in meeting the child care needs of employees. Employer-supported child care has grown at a rapid rate. By some accounts, the number of employers assisting employees with child care has doubled in the past two years. Nonetheless, despite the vast publicity generated by activities of individual employers, child care benefits remain uncommon. Experts interviewed by BNA estimate that no more than 1,000 employers in the United States were providing child care assistance to employees in early 1984.

The most publicized efforts have been those of such firms as Stride Rite in Boston and Intermedics, Inc., in Freeport, Tex., that make subsidized care available to children of employees at a center located at the workplace. However, such centers are the exception rather than the rule in employer-supported child care. Except among hospitals, with which on-site care has proven popular due to the need for round-the-clock service and the availability of support services from the institution, relatively few employers are choosing to sponsor or operate their own centers. According to a federally sponsored study in 1982, only 211 day care centers around the country were directly supported by employers, and 152 of those were affiliated with hospitals.

The major growth in employer-supported child care appears to be in provision of information and referral services, which assist employees in evaluating their own child care needs and in locating care. Subsidized care is growing in popularity primarily among firms offering cafeteria benefit plans, which enable employees to select child care over other possible benefits, such as health insurance or extra vacation.

Child care is still not widely accepted as an appropriate fringe benefit. "Basically, across the bargaining table we have said that our principal business is manufacturing," explains a labor negotiator for a large industrial firm where a union has sought child care benefits. "The union is asking for a substantial chunk of the resources that are available to go to a very few people, those that have families that fit into the appropriate age bracket. The cost is very high. You take the same amount of money and put it into a dental plan or a health plan and everyone benefits from it."

"There's not an enormous amount of interest in child care," acknowledges Linda McFarland, a benefits consultant with Hewitt Associates in New York. "To be honest, I think most of the interest in child care comes as a result of a study where employers are concerned about something else. No client that I have ever started an assignment with has ever called up and specifically said they wanted to develop an assignment involving child care."

To promote employer interest, the White House Office of Private Sector Initiatives has sponsored a series of seminars to present child care information to corporate and government executives. "Companies don't want to admit they have a child care problem," says Richard Schlaff, the program's coordinator. "They'll say, 'Yes, we have a problem, but it's a transportation problem.' On the realistic side, I don't see companies out there beating down the doors to start these plans. But they do see them coming."

In a 1982 survey of 204 corporations providing some form of child care assistance to employees, Renée Y. Magid, professor of education at Beaver College in Glenside, Pa., found that the major motivation in the decision to provide assistance was to increase the firm's ability to attract talented employees. "Better personnel relations" and improved workforce stability ranked second and third, while "social consciousness and awareness" was the fourth most frequently cited reason. Tax incentives, union pressure, and pressure to follow examples were all ranked low among the motivations for instituting the benefit.

Measuring the Benefits

Almost all employers ... felt their program's benefits outweighed its costs.

According to Magid's survey, almost all employers offering child care assistance felt their program's benefits outweighed its costs. By far the major perceived benefit was an advantage in recruiting new employees, with improved employee morale the second most frequently cited benefit. Lower absentee rates, less turnover, and the ability to attract persons on leave back to work were also seen as important benefits. By contrast, improved production efficiency or product quality, better employee motivation, and provision of equal employment opportunity were judged relatively insignificant.

The National Employer-Supported Child Care Project, a research program sponsored by the U.S. Department of Health and Human Services, came to a similar conclusion in a 1982 study of 415 employer-supported programs. Of 178 firms responding to a survey question about the effects of their child care benefits on turnover and absenteeism, 65 percent reported reduced turnover and 53 percent reported lower rates of absenteeism. [It should be noted, however, that during the period this survey was conducted, *BNA's Quarterly Report on Job Absence and Turnover, Fourth Quarter, 1982,* reported that year-end monthly rates for absenteeism and turnover were the lowest in the report's nine-year history.] Some 85 percent of companies responding reported that the child care benefit had a positive effect on recruitment, and 85 percent saw public relations gains. Improved equal employment opportunity, tardiness, workforce quality, and product quality were the least commonly cited benefits.

Project researchers also surveyed 691 employees whose children attended child care centers sponsored or operated by their employers. Thirty-eight percent of those surveyed said the child care program was a factor in the decision to take

their current job, while 69 percent said it was a factor in their continuing to work at their current job and 63 percent reported a more positive attitude towards their company because of its support for child care. More than half of the parents said they had recommended their employer to others because of the child care benefit.

In 1981 and 1982, researchers Stewart A. Youngblood and Kimberly Chambers-Cook performed a comparative study of two southern textile companies, one of which operated an on-site child care center and the other of which offered no child care benefits to employees. The researchers found significant differences between the two firms in employee satisfaction, organizational commitment, organizational climate, and turnover intentions. Employees surveyed also agreed with the view that a firm with day care assistance is better to work for. At the firm providing child care, more users than non-users of the service believed it would improve job satisfaction and employee perception of the firm, while employees with children were less likely to be planning to leave than were childless employees and females less likely than males. Among employees using the child care benefit, the number of absences after the child care center opened did not differ significantly from the number of absences during the previous year. However, the company offering child care experienced a much greater drop in turnover than did the comparison firm.

Lower absenteeism and turnover rates were found among a random sample of 30 mothers whose children were enrolled in the Northside Child Development Center, an employer-supported program in Minneapolis, than among employees of the same firms who had no children of day care age and among mothers employed by those firms whose children did not use the center. The study, conducted in 1975, found the day care participants to have monthly turnover rates of 1.77 percent and absenteeism rates of 4.40 percent. These rates were significantly lower than the rates for non-participating mothers, which stood at 6.30 and 6.01 percent, respectively, and for the other employees, whose rates were 5.50 and 5.00 percent. The researchers also found less variability in turnover and absence rates among mothers using the center than among the two other groups, suggesting that mothers whose children were not enrolled in the center exhibited less stable work habits. No significant differences were noted in performance ratings among the three groups.

Few firms have done cost-benefit analyses of their own child care support programs. Sandra L. Burud, who was director of the National Employer-Supported Child Care Project, believes "it's so good for the companies the companies don't keep track of what it's doing for them." In addition, some of the benefits, such as the extensive publicity received by firms operating child care centers, are difficult to quantify.

Utilization

An average of less than four percent of a firm's employees appear to use the service.

Few data are available on patterns of utilization of child care benefits. Based on BNA interviews with employers who offer a child care benefit, an average of less than four percent of a firm's employees appear to use the service. Most observers feel that the benefit is used predominantly by white collar workers, particularly professional and technical workers. According to a 1981 BNA survey of employers providing child care centers, a median of two percent of eligible workers used them.

Prior to establishing a dependent care assistance program, employers generally attempt to assess the needs of employees and the availability of services in the community. Often this is done through establishment of a task force comprised of both employee and management representatives. When the task force has selected the options that appear to suit the conditions in the community and the philosophy and financial situation of the employer, a scientific survey of employees is often the next step. However, professionals in the field warn that such surveys may fail to identify the true needs of employees and to accurately predict utilization of the resulting benefit.

"What has happened with a lot of people is, they have put together questionnaires where everything pointed to an on-site center," reports Karol Rose, whose New York consulting firm, Children at Work, conducts needs assessments. "We asked them, 'Would you consider an on-site center ?' They said, 'Absolutely not, we have no space here.' But everything they were going to ask was going to raise expectations of an on-site center."

Some experts suggest that an information and referral program is a useful intermediate step toward provision of a more costly benefit, because the face-to-face consultation between the employee and the referral specialist enables a more accurate assessment of need. Dana Friedman, who follows child care developments for The Conference Board, a business research organization in New York, observes, "A lot of companies don't like to do needs assessments. They're afraid they'll raise expectations and they're not going to follow through. What information and referral does is put a counselor face-to-face with the parent and let them discuss the real needs. The surveys, I think, have misrepresented the need."

IV. UNION VIEWPOINT

In general, labor unions have had little involvement with child care issues. A BNA survey of 10 major private sector unions found only one case in which child care is provided by funds secured under a collective bargaining agreement. In several other cases, bargainers have agreed to contract provisions requiring studies of employee child care needs, but so far these studies have not led to continuing provision of child care services or assistance at employer expense.

"Due to the recession and a lack of funds and general economic conditions, it's not going to be a high priority," says Joyce Miller, a vice president of the Amalgamated Clothing and Textile Workers Union who chairs the Coalition of Labor Union Women. Miller's union is the only union in the United States that provides child care through private sector collective bargaining arrangements, but she says, "I don't see it moving as an issue. Child care is very expensive, and unions can only run it as we did, as a pilot project. It's something that's going to need the help of government and employers."

CLUW is now setting up a clearing house to distribute information on child care to interested union members. Bobbie J. Crequé, an AFL-CIO official and a member of the CLUW executive board, believes labor interest will grow. Says Crequé, "A number of unions are talking about it. The desire is there. What has happened in recent years is that with inflation, the economy, social security, these issues have taken the front burner while child care has been put on the back burner." For child care to become a more common benefit, she cautions, "We have to get it out of the realm of women's issues."

At its 1983 convention, the AFL-CIO adopted a resolution calling for national and international unions to "emphasize the importance of child care as a vitally important bargaining issue.

Child care has become part of the bargaining programs of several unions:

The *United Auto Workers* (UAW) recently negotiated a contract with American Motors Co. providing for child care at an AMC plant in Ontario, which may be a model for future contracts in the U.S. Side letters providing for establishment of joint union-management child care study committees were included in the 1981 Master Agreement between the UAW and Rockwell International Corporation, and in 1980 and 1983 contracts between the union and Douglas Aircraft Company. However, no formal studies have yet been conducted under those provisions. According to Shirley Underwood, a UAW official representing workers at that company, workers at the Douglas plant in Long Beach, Calif., have been concerned primarily about the availability of child care during evening shifts. Workers desire the company's cooperation in identifying providers, Underwood says, but not in operating a center: "People will not bring their child to the workplace. They want their child to stay in the community."

The Newspaper Guild's collective bargaining program requires that locals present contract proposals including a provision for employer-paid preschool and after-school care. Bargaining recommendations call for such centers to be under employee-parent control and for employee participation to be voluntary. Such a provision has not been adopted in any Guild contract. However, several Guild contracts have included provisions for feasibility studies for on-site care or other types of assistance. Newspaper Guild bargaining with a publisher in Washington, D.C., led to a joint union-management study committee, which ultimately spearheaded formation of the Metropolitan Washington Child Care Network, a coordinating umbrella for child care information and referral agencies in nearly a dozen area localities, supported by 11 area employers. A recent Canadian contract requires the employer to pay for child care while employees are on out-of-town assignments.

Service Employees International Union Local 399 and Kaiser-Permanente Medical Care Program of Los Angeles agreed in 1980 to a feasibility study of child care. The study led to production of a booklet on available services. SEIU does not recommend specific contract language to locals, but in general supports establishment of joint labor-management committees on child care.

The *Communications Workers of America* recommended prior to 1983 contract negotiations with the Bell System that the company set up, maintain, and staff child care centers for employees if there were a demand by 10 or more employees for such centers. The union also recommended that the centers be near work locations, to enable parent-child interaction during lunch or breaks. The proposal was not adopted during bargaining. John D. Abraham, associate director of the CWA's Development and Research Department, says membership interest in child care is weak. "We've made a number of proposals to our delegates about it, we've held conferences, but there doesn't seem to be a lot of interest on the part of the rank-and-file," he says. "We haven't gotten rank-and-file support for the proposals, to everyone's surprise, because of our large female membership."

The *American Federation of Government Employees* Local 12 in Washington, D.C., agreed with the U.S. Department of Labor to maintain a child care center at Labor Department headquarters. The agreement provides that children whose parents are not Department of Labor employees may be admitted to the center only if no employees' children are available to fill vacancies. Each parent is allowed up to two hours of administrative leave per month to attend child care center meetings; members of the center's governing board are permitted an additional two hours of leave monthly to attend board meetings.

Union-Operated Child Care

The most active union in the child care field has been the Amalgamated Clothing and Textile Workers Union, which opened its first day care center in Virginia in 1968. The ACTWU network grew to six centers in the Mid-Atlantic region, all operated by the union-management health and welfare fund, plus a single center in Chicago operated for union members outside any collective bargaining agreement. By 1977, ACTWU was providing care for more than 1,300

children, and labelled itself the largest non-profit provider of day care services in the United States. However, one of the Baltimore centers closed in 1978 and two more followed in 1980, due to the failures of the apparel firms whose employees used the facilities. The Chicago center closed in 1983 for financial reasons, leaving only the three centers in Pennsylvania, Maryland, and Virginia.

"We've suffered many of the things that have happened in this industry," says Don Shearer, director of child care for the ACTWU Baltimore Regional Joint Board. "We had three other centers, and those clothing factories completely closed. Also, there has been some change as far as the Baltimore Regional Joint Board. The previous joint board manager, it was his project and he had a very strong feeling about it. The new leadership feels we have to move into new areas, perhaps with benefits that benefit more people. Also, there are a lot of problems because our workforce in the clothing industry is becoming older. The clothing industry is not attracting young people. Many people used day care at one point, but now their kids are beyond the age we're serving."

"Many people used day care ... but now their kids are beyond the age we're serving."

The largest of the ACTWU centers, in Chambersburg, Pa., illustrates the problem. The center once housed more than 300 children, and had a waiting list. Today, only 168 children are enrolled. Union members pay a $20 weekly fee for the service. The cost is largely subsidized by the health and welfare fund, which assesses employers two percent of payroll for child care and other benefits. The center is also open to the general public at a rate of $50 per child per week.

The ACTWU center opens at 6:15 a.m. so parents can drop off their children before reporting to work at a nearby apparel plant. Good relations with plant management make it possible for the center's staff to quickly contact parents in the event of illness or emergency.

Shearer strongly supports union involvement in child care, but he questions whether the union-run center is the way to go. "Unless the industry is a very strong industry and has a large number of employees in an area, that's a minus. The Amalgamated made quite a large investment because we built our own facilities, so you can end up like we did in several places with empty buildings because they're no longer needed. I feel the best way is if more than one company, or companies and community groups, can work together, so you're not dependent on one particular company."

Another union that has recently become involved in child care issues is the National Union of Hospital and Health Care Employees, District 1199 of the Retail, Wholesale and Department Store Union. District 1199 represents 7,000 workers in institutions run by the State of Connecticut. In their 1979 contract, union and management agreed to survey the need for child care at five large institutions. In 1982, the state legislature appropriated $75,000 for renovations and start-up costs for a child care center at Connecticut Valley Hospital in

Middletown. The hospital itself made contributions of $35,000. The arrangement was advantageous to the union because no funds obtained from collective bargaining were used to establish the center.

At Connecticut Valley Hospital, where the union represents 1,000 employees, some 75 children from 47 families use the center. Rates are based on income, ranging from a minimum of $44 per week to a maximum of $75. The center is open from 6:30 a.m. to 6:00 p.m., Monday through Friday; later hours were discontinued in March 1984 due to lack of demand. The center itself is run by a board of directors dominated by parents, but including both management and union representatives.

In 1983, the legislature appropriated another $70,000 to establish a similar child care center at a state institution for the mentally retarded. So far, the state has been unwilling to subsidize the actual operation of the centers, other than to provide free space in state-owned buildings. However, a recent contract establishes a quality of worklife fund, and subsidies for child care are one use to which that fund might be put in the future.

According to Debbie King, a Connecticut official of the Hospital and Health Care Employees, the union sought the present arrangement, rather than state subsidies or other approaches to child care, because of the cost. "This was much cheaper, since there was no collective bargaining money used to set up these centers. If, for example, we were going to try to give people coupons to use for licensed day care, the cost would be much greater. It would have to come out of contract money." She adds, "The feeling we got from surveys of our members is, they wanted big wage increases more than they wanted child care."

The result has been that the centers are relatively expensive for low-income employees. Less than 25 percent of families using the center at Connecticut Valley Hospital have incomes below $20,000. Notes King, "The major problem we found with this type of system is we are learning that providing high-quality child care is expensive if it is not subsidized. The idea we had before was, if we didn't have to pay rent and if we set it up at the worksite, it will be cheap. That's not true."

V. TAX ISSUES

Employer support for child care is encouraged by federal tax laws. Two separate types of programs, dependent care assistance programs and "cafeteria plans," have become common. Many employers are promoting child care through zero-balance reimbursement accounts (ZEBRAs), a controversial approach that has come under scrutiny by the Internal Revenue Service. In addition, two states provide tax incentives for employer-supported child care. This chapter will examine the tax consequences of employer-supported programs, including so-called voluntary employee benefit association (VEBA) plans. Employee benefits specialists comment on the proposed Internal Revenue Service regulations that have caused many employers to revise their salary reduction plans.

Dependent Care Assistance Programs

The most direct government encouragement for employer-supported child care is found in the Economic Recovery Tax Act of 1981. That law created a new Section 129 of the Internal Revenue Code, authorizing tax benefits for dependent care assistance programs meeting the standards outlined in the law.

Section 129 provides that employees may exclude from their gross income, subject to certain limitations, amounts paid by their employers under qualified dependent care assistance programs. Employers may deduct, as an employee fringe benefit payment, all amounts paid into the plan. Section 129 applies to all benefits provided under a dependent care assistance program in tax years beginning after Dec. 31, 1981.

To be a qualified under Section 129, a formal written plan must be established and be for "the exclusive benefit" of employees. The plan must not discriminate in favor of highly compensated employees or employees who are owners or corporate officers. There are no restrictions on the length of service that must be considered for employee participation. Employees covered by a collective bargaining agreement may be excluded from the plan if there is evidence that dependent care benefits were the subject of good faith bargaining between employee representatives and the employer.

Under a dependent care assistance program, not more than 25 percent of the amounts paid or incurred by the employer during the year may be provided to families who own more than five percent of the firm's stock or who have more than a five percent interest in the employer's profits. However, programs will not be deemed discriminatory merely because they are used more by one class of employees than by another class.

There is no requirement that the employer's written plan be filed with the Internal Revenue Service. However, eligible employees must receive reasonable notification of the availability of the benefit.

Under a dependent care assistance program, an employer may provide on-site care, may contract with third parties to provide care, or may reimburse employees for child care expenses. The care-giver may be any person except a child of the employee under age 19 or a person for whom the employee may claim a personal income tax exemption. Services paid for may be those that would be considered employment-related if paid by the employee under Section 44A of the Internal Revenue Code. To meet the Section 44A test, dependent care centers must comply with all applicable state and local laws and regulations, must provide care for more than six individuals, and must receive a fee, payment, or grant for providing services for any of the individuals.

Married employees are generally not eligible for benefits under a dependent care assistance program, unless the employee's spouse is also employed, is a full-time student, or is disabled. The amount excluded from the employee's income is limited to the earned income of a single employee and to the lesser of the earned incomes of a two wage-earner couple.

The Internal Revenue Service has not issued regulations under Section 129.

Cafeteria Plans

Cafeteria plans, formally known as flexible compensation plans, allow employers to offer a variety of benefits, with employees having the right to elect those benefits best meeting their individual needs, up to a value specified by the employer. The plans are authorized under Section 125 of the Internal Revenue Code, which was passed in 1978.

Some employers have chosen to offer dependent care assistance programs through a cafeteria plan. "Most of the programs we put in include child care," according to Lance D. Tane, manager of flexible compensation for The Wyatt Co., a benefits consulting firm. "Cafeteria plans have been one of the main reasons child care benefits have proliferated." Typically, Tane says, such a benefit is used by four to five percent of a firm's workforce. "That's what makes it very difficult for an employer to offer this as a benefit, except as part of a cafeteria plan. But for the employees who use it, it may be the most important benefit."

"Cafeteria plans have been one of the main reasons child care benefits have proliferated."

Many cafeteria plans allow an employee to select a specific amount of child care benefits, according to standards set by the employer. If the employee's child care costs exceed the specified amount, the employee must pay the difference; if child care costs are less than the maximum the employer has agreed to pay, the unspent funds revert to the employer. If the benefit meets the requirements of Section 125, it will be non-taxable to the employees using it. Such plans have generally not met with objections from the IRS.

However, the IRS has sharply attacked a variation of such plans known as the zero-balance reimbursement account, or ZEBRA. Under a ZEBRA plan, the

employee does not actually have a child care account. Instead, the employee submits child care bills to the employer. The employee is reimbursed for the child care expenses, with no income taxes withheld, while his regular pay check is reduced by the amount paid as reimbursement. In effect, the plan enables the employee to avoid paying federal income tax on the portion of his salary used for child care.

Such arrangements were challenged by IRS in a press release issued in February 1984. In the announcement, IRS said arrangements such as the ZEBRA are "without substance and do not reduce employees' taxable income." Any reimbursement under such plans "is part of the employee's income under Internal Revenue Code section 61 and is subject to federal income tax withholding and federal employment taxes."

The IRS position was elaborated on in proposed regulations on cafeteria plans issued May 7, 1984. The guidelines restate the IRS objections to ZEBRA accounts. According to John Chapoton, assistant secretary for tax policy of the U.S. Treasury Department, "ZEBRAs are dead."

According to the guidelines, "... dependent care assistance provided under a cafeteria plan will be treated as provided under a dependent care assistance program only if, after the participant has elected coverage under the program and the period of coverage has commenced, the participant does not have the right to receive amounts under the program other than as reimbursement for dependent care expenses." Moreover, the care must be provided during the time the employee is covered by the program, and the plan must not be structured so that the participant is enrolled only during the period he expects to receive dependent care assistance.

In addition to continuing the ban on ZEBRAs, the proposed regulations would bar flexible spending accounts that allow employees to receive in cash at the end of the year any money in their accounts not spent on benefits. However, money contributed to such accounts prior to June 1, 1984, will not be taxed. (For the text of relevant portions of the IRS guidelines, see Appendix A.)

The problem with ZEBRAs, as IRS sees it, is that there is no account balance established at the start of the taxable year. In addition, there is no limit on the amount that can be switched from taxable to tax-free income. IRS distinguishes this from valid reimbursement programs, which establish an account balance for employees. Valid programs, according to IRS, must contain an element of risk for the employee, such as the possibility that the entire amount in the benefit fund will not be used and that a portion will revert to the employer.

Employee benefits specialists say the May 7 proposed regulations have reduced confusion as to exactly what types of plans are legal. However, IRS has said it will not issue advance determinations as to whether or not a cafeteria plan complies with the standards of Section 125, but will make such determinations only on audit.

Not everyone believes the proposed IRS regulations are the final word on flexible benefit plans. "I just don't feel the whole matter is settled," advises Robin Block, a benefits consultant with William M. Mercer — Meidinger, Inc. "I'm still

telling my clients to wait. This is an election year. I think we're going to see a lot of changes in the next few months."

"One of the things they have done is to make it clear that salary reduction is a legitimate form of funding dependent care," says Linda McFarland, a consultant with Hewitt Associates. "They have introduced some additional complexities for dependent care, in that there has to be a separate account and a determination of how much will be in that account. It has to be separate from medical benefits, so you have to make an assessment at the beginning of the year as to how much the child care expenses are going to be, and if you're wrong you can't trade back and forth."

"Salary reduction is on a much stronger footing."

McFarland says the proposed regulations appear to endorse the salary reduction plan concept. "IRS had an opportunity to attack ZEBRAs by saying salary reduction is not an acceptable way of financing, or they could have attacked the strategy of the reimbursement account. They chose to attack the strategy of the reimbursement account rather than salary reduction. To me that means salary reduction is on a much stronger footing. They're blessing salary reduction." Lance D. Tane agrees. "There's absolutely no question about that. The regs clearly said salary reduction plans are legal," he says. However, Tane notes, the proposed regulations bar methods of electing benefits that would allow employees to select child care only for periods when they expect to use such a benefit. "If the employer has an annual election, he won't have a problem. If it's more frequent, he might have a problem. I would not recommend monthly election. Annual election is clearly OK. Semi-annual or quarterly election might be OK. More than that is questionable."

Employers with flexible benefit plans of all types continue to face uncertainties in determining what types of child care qualify for reimbursement. In general, according to Tane, the employer must have reasonable cause to believe the money is actually being used for child care. "To the extent that the employer is providing non-qualifying child care, it's still deductible to the employer, but taxable to the employee," he advises. "The employer is still involved, because he is responsible for reporting and withholding income. Most of the employers we work with require employees to fill out a claim form to allow the employer to determine whether the care meets the requirements."

Bill Chip, counsel to the Employers Council on Flexible Compensation, offers similar advice, drawing on the Internal Revenue Code's requirements for medical benefits. "Section 105 says employers are not required to verify the accuracy of medical claims. As an attorney, I would advise employers to ask for the same kind of information IRS asks for when people claim [the dependent care] credit on their personal income tax forms. If an employer had reason to believe employees are cheating, the employer could probably be prosecuted for failing to withhold tax. But if the employer obtains assurances from the employee, I think the

employer would be held harmless." Copies of receipts for child care services are helpful records, but are not required, Chip says.

Other Federal Tax Issues

Some employers have chosen to provide support for child care through voluntary employee benefit associations (VEBAs), tax-exempt entities organized under under Section 501(c)(9) of the Internal Revenue Code. VEBAs may be used to offer child care grants or subsidies to eligible employees.

Many firms have sought to improve the quantity and quality of dependent care available in their communities by making donations to child care organizations that are tax exempt under Internal Revenue Code Section 501(c)(3). The entire amount of the contribution is deductible to the employer in the year in which it is made. However, if the gift results in benefits to the employer, such as preferred admission for employees' children or reduced fees, the child care organization may lose its tax-exempt status and the gift would not be deductible.

Employers who establish their own centers may deduct expenditures for purchase and renovation of a center, as well as for playground equipment and other property, under the Accelerated Cost Recovery System established by Section 168 of the Internal Revenue Code. Real property is deductible over a 15-year period, while most equipment is deductible over five years. The costs of goods and services to operate the center are deductible in the year in which they are incurred. The employer must show that the expenses are intended to benefit the employer's business by reducing absenteeism and turnover.

Pending Tax Law Changes

During April 1984, both the U.S. Senate and the House of Representatives approved tax law changes that may affect employer-supported child care. The Senate bill, attached to HR 2163, and the House bill, HR 4170, would severely limit the use of VEBAs. In addition, the House-passed measure includes language stating that a benefit would not be excludable from taxation if another section of the tax code provides rules for the tax treatment of that type of benefit. This would probably restrict the deductibility of child care expenses to those expenses meeting the standards of Section 129 discussed above. The bill would also amend the definition of a cafeteria plan to provide that such plans may allow employees to choose only among cash or those fringe benefits excludable from taxable income under a specific section of the tax code. Again, this provision would appear to require that all dependent care assistance meet the standards of Section 129.

The House-Senate conference committee on the tax bill approved a compromise measure in late June that would allow any ZEBRAs in existence before the February 1984 press release to continue until January 1985, so long as these plans are not modified after the date of the IRS release to provide additional benefits to employees. The compromise provision would be effective for benefits provided before July 1, 1985, for plans that meet all the requirements of the IRS proposed regulations on cafeteria plans other than the forfeitability requirement. No more than 25 percent of total cafeteria plan benefits could be provided to a company's key employees.

State Tax Provisions

According to a BNA survey, two states presently have corporate tax provisions designed to encourage employer-supported child care. California allows employers to take accelerated depreciation for investments in child care facilities that meet state standards. Connecticut allows certain corporations an income tax credit equal to 25 percent of total expenditures for planning, site preparation, construction, renovation, or acquisition of facilities to be used primarily by children of the taxpayer's employees.

The state of Michigan formerly offered an income tax credit for employers supporting child care facilities for employee use. However, according to an official of the state Treasury Department, the credit was little used, and has been repealed. Legislation creating corporate tax credits for employee child care was also considered during 1984 by legislatures in Florida, Hawaii, Indiana, New Jersey, and New York.

(Existing state tax provisions appear in Appendix D.)

VI. APPROACHES TO CHILD CARE BENEFITS

While the employers who pioneered in providing child care benefits to employees frequently did so by operating an on-site child care center, employers today are considering many other options. In the report of the National Employer-Supported Child Care Project, approximately 40 percent of 385 employers listed as providing a child care benefit in 1982 did so with an on-site center. Almost 35 percent of the employers provided the benefit at an off-site center, usually by supporting a non-profit child care center in the community in return for reduced tuition or priority admission for their employees. Just under 13 percent provided a child care benefit primarily through information and referral services at company expense, while 6 percent used seminars for parents as their major benefit. Reimbursement for privately arranged child care was used by 4 percent of employers, while a handful provided child care benefits by arranging care for sick children, supporting family day care homes, or subsidizing summer camps for employees' children.

Since that time, many employers have added child care benefits with new techniques. The greatest movement, however, has been in the direction of information and referral services. "The big development, and it's exploding right at this moment, is employers doing information and referral and related seminars," asserts Alfred J. Kahn, a professor at the Columbia University School of Social Work in New York. "I don't think anything else will happen unless the labor market gets very tight." Agrees Dana Friedman of The Conference Board: "Probably the most prevalent approach right now is information and referral services and parent education seminars — ways of helping employees choose child care."

The variety of approaches has led to increased employer interest in providing child care benefits. Observes Linda McFarland of Hewitt Associates, "I wonder if anyone ever thought that to provide medical care for their employees, they had to run a hospital. If an employer had to do that, there probably wouldn't be as many medical plans as there are today. An analogy can be made with child care. It's not the death knell for child care if employers are reluctant to start up centers."

On-Site Care

On-site care — a day care center on the employer's premises, operated either by the employer or by a contractor — is what mention of employer-supported child care often brings to mind. While the proportion of employer-supported programs offering on-site care has declined, the absolute number of on-site centers is expected to continue to increase.

"My feeling is that down the road, there will be more programs with on-site child care," comments Sandra L. Burud of the National Employer-Supported

Child Care Project. "In the past, companies which had child care were single-site and CEO-dominated. He [the chief executive officer] made the decision. Now we're in a second phase, a data base decision: here's who the employees are, this is what they need. The third phase will be an employee-benefit decision: 'Everyone else is doing it, we need to do it, too'."

Firms see several advantages in on-site care, Burud says, including a strong sense of control. "They feel they can control the hours, the quality of the program, the subsidy, that sort of thing. They get a little bit different sort of publicity. Some companies just like that sense of ownership."

New York consultant Karol Rose, a principal in Children at Work, Inc., advises corporate clients on responding to employee child care needs. "The child care center is the least likely option for a lot of employers and lot of employees," she advises. "The majority of companies in our country are not massive, and even if they are, it's not in their best interest to do a child care center. They can be supportive in so many ways. To stress on-site is really an unfortunate thing. There are ways to expand the quality of what we have in place without duplicating services."

Alfred J. Kahn is even more emphatic. "Almost everyone who knows anything about the field doesn't think on-site centers are good ideas," he says. "On-site care scares the hell out of employers. They have to build facilities for the employees they have today, but their labor force is changing. It's a big investment. Mothers hate child care if it's on-site — they work in the city and they have to take the kids on mass transit."

However, Kahn allows, "when you have a specialized labor force living near the plant and no community resources, or strange shifts where you can't expect private facilities to give you coverage, or a unique population, [on-site care] makes sense."

On-site care is one of the more expensive alternatives available to employers. According to the 1982 study by Renée Y. Magid, start-up costs for 204 employer-supported centers ranged as high as $999,000, and average annual operating costs were $2,400 per child. Total operating budgets for on-site centers ranged up to $445,000 per year. However, Magid warns that published cost figures are of little value, because many employers do not impute values to donated space and staff time when calculating the costs of their facilities.

Of the 204 employer-supported programs surveyed by Magid, 69 percent, or 141, involved on-site care. Of these, almost all provided meals to children, with lunch and a snack being the most frequently provided meals. Over half of the on-site centers sponsored parent discussion groups, and one third encouraged parent visitation of the child care center. Forty-one percent of the corporate facilities offered a baby room for nursing mothers. Forty percent offered medical services for children, 19 percent offered professional child counseling services, and 7 percent provided dental services. Less than one in five offered transportation.

Most studies indicate operating costs of on-site centers to be $2,000 to $3,000 per child per year, with larger centers able to achieve lower costs. According to the National Employer-Supported Child Care Project, fees for preschool-age children in 1982 were most commonly in the range of $26 to $45 per week, with 23 percent

of centers charging over $45. Fees for infants and toddlers were reported to be higher, with 36 percent of centers charging over $45 per week for children under age 2½. Fees were lower for school-age children, but only about one third of the centers surveyed accepted children of that age.

These results are similar to those reported in a 1981 study of BNA's Personnel Policies Forum, which found weekly fees at on-site centers to range from $9.50 to $56.25 per child.

Not all on-site centers prove successful. Eleven percent of firms identified as providing child care in the BNA survey rated their programs as unsuccessful, largely because they did not meet the needs of employees. According to Magid's 1982 study, most programs that had closed did not do so because of problems directly related to the centers. Lack of continued government funding, a downturn in general economic conditions, high costs, and declining employee utilization were the reasons most frequently cited for closing programs.

Off-Site Child Care

Instead of offering on-site care, many employers have chosen to encourage use of a specific center not located at the workplace. Such arrangements have taken many forms:

- Employers in St. Louis, Pittsburgh, Washington, D.C., and other cities have developed non-profit child care consortia. Under a consortium arrangement, a group of employers underwrites the establishment of a child care center, usually in return for a guaranteed number of places or priority in access to open slots. Most consortium centers also admit children whose parents are not employed by a sponsor.
- Private off-site centers, serving only children of the sponsoring firm's employees, have been established in several cases.
- Firms may support existing centers with money, in-kind assistance, or space, in return for employee access to child care. In some cases, employers have provided subsidies or guarantees to encourage existing centers to expand operating hours to meet special needs.
- For-profit child care centers often offer special arrangements for employer-sponsored care.

Typically, off-site programs are self-supporting, with corporate sponsors making annual donations or providing in-kind services rather than subsidizing care for individual employees. Operating costs are similar to those of on-site facilities. In many cases, employer representatives take seats on the board of directors of a non-profit provider, in order to maintain control of quality and to ensure efficient management. While a consortium requires a number of employers to reach agreement on management issues, the costs borne by any one employer are less than for a single-employer center. Since off-site centers are normally used by children of several employers or by the public at large, the risks of making a large investment that may not be warranted by future demand are reduced.

One variation on such programs is Kindustry, an employer-sponsored program offered by Kinder-Care Learning Centers, Inc., a for-profit company based in

Montgomery, Ala. Kinder-Care offers a 10 percent discount to employees using one of its centers if their employer will match the discount, enabling the employee to obtain care for at least 20 percent less than the standard rate. Parents are reimbursed for two weeks of vacation time when their children do not use the center, and receive half the cost of tuition back when the children do not come because of illness. With the firm's national average fee of $40 per child per week, employer subsidies average $4 per child, while parents pay an average of $32 for the service. The parents' share can be deducted from payroll by the employer. According to Kinder-Care, 76 employers presently belong to the program.

Consultant Karol Rose notes the disadvantages of supporting a specific off-site center. "Often the company thinks it's meeting the needs of employees, while it may not even have determined what the needs of employees are. We feel it's very important for parents to have choices in the care of the child. It's a very personal decision. If the company subsidizes a particular program and the parents don't have any other choices, it takes away from their freedom as informed consumers."

Information and Referral

Partly because of its relatively low cost, the information and referral service is becoming one of the most popular forms of employer support for child care. Typically, employers contract with a non-profit agency to provide the service to employees, either on a per-employee basis or for an annual fee. The services vary widely, ranging from simple provision of a list of available centers to lengthy interviews followed by recommendations of specific centers that would satisfy the needs of parent and child.

Phyllis Silverman of Catalyst in New York says a counseling process can lead to increased employee satisfaction with the eventual choice of child care. "When parents are insecure about the process, they tend to feel less satisfied and remain less satisfied than if they've gone through the process," she says. Many parents, she notes, simply do not know how to look for child care on their own, and references combined with information on how to evaluate options can be important.

Information and referral, however, may not solve employee problems or meet the needs of the employer. "One major company talked to us about an information and referral program to reduce absenteeism," relates Dana Friedman. "In the long run, absenteeism depends on the quality of care those individuals choose. Information and referral won't help that."

Renée Magid tells a similar story about an insurance company. "They were going to provide lists of child care centers. As a parent desperately in need of lots of different things, trying to survive this conflict over being a working parent, for them to hand me a computerized list of child care centers is very nice, but that's not going to get at where I'm at. I need somebody to sit down with me. I don't mean you need a psychologist, but you need some counseling with information and referral. I am totally down on companies handing out a list and saying they're doing something for their employees. Anybody can get that from the telephone book."

Sandra Burud cautions that a referral service can help only if there are sufficient child care facilities available in the community. "It only handles the problem of visibility," she says. "Problems of cost and quality and availability it doesn't handle."

Parent Seminars

Many employers are offering on-site seminars for working parents, in place of or as a complement to other efforts. This is probably the least expensive means of employer support for working parents, with costs ranging from $100 to $900 per session. The seminars typically deal with such issues as selecting child care and resolving conflicts between being a worker and a parent. They may be hour-long lunchtime programs or day-long sessions that employees attend on company time.

Family Home Care

One increasingly popular means of employer support is sponsorship of family home care networks. Such networks consist of individuals who provide care to a small group of children in their own homes. In many states, such homes are not licensed, and may provide care to no more than six or eight children at one time.

"The idea of family day care with flexibility and a home-like atmosphere is very appealing," says Karol Rose. "The problem with family day care is it's not monitored. Quality varies greatly. What can happen in a family day care network is that providers are part of a professional network, so they're supervised and get training."

Family day care homes are often cited as particularly useful for parents of infants and small children, who are harder to place in conventional child care centers. "You've got the baby boom generation having babies, and they want infant care," says Dana Friedman. "They want care for six-week-old infants." This has made family care one of the most frequently requested options at firms she has studied, Friedman says.

Because of concerns about quality, few employers support individual family care providers. However, hospitals in California, manufacturers in New York and California, and businesses elsewhere have donated money to family care networks in return for the opportunity for their employees to use the services provided.

Flexible Benefit Plans

Flexible benefit plans, under which an employee may choose employer-subsidized child care instead of other possible fringe benefits, are becoming an increasingly common method of employer support for child care. These plans, known as "cafeteria plans," are popular in part because they allow employers to offer a benefit that will not be used by most workers. The plans are particularly popular among large employers. According to the Employers Council on Flexible Compensation, 214 of the nation's largest companies offer flexible benefit programs, of which half include dependent care benefits.

Flexible benefits are particularly useful for two-worker households. Explains Lance Tane, "Very frequently a couple needing child care is a couple where both

husband and wife work and both have medical coverage at work. So one does without." Most plans his firm is involved with set a maximum child care benefit of $5,000 per year, Tane says.

The flexible benefit approach has been strongly supported by employer groups, such as the U.S. Chamber of Commerce. "We are very very supportive of the cafeteria approach to employee benefits because of three things," says the Chamber's Mike Romig. "First, it's a tax-effective way of compensating the employee. Second, it's cost-effective from the employer's viewpoint. Third, it's effective from an industrial relations point of view, because you're providing a benefit employees want."

Inclusion of child care benefits in flexible benefit plans has come under attack in Congress, amid claims that the benefit is not among those envisioned by Congress when flexible spending accounts were authorized in 1978. While no legislation is expected to pass this year, laws limiting cafeteria plans could retard the growth of child care benefits, Romig says.

If such laws are passed, "I would rather imagine we are going to see the growth of child care benefits restricted. The employer does not want to get into the business of offering a benefit of marginal value to most of his workforce. I could even imagine a suit charging discrimination," he adds.

VII. CASE STUDIES: HOW BENEFITS ARE PROVIDED

The following employers are among many who are presently providing child care benefits to their employees. The cases discussed here have been selected primarily to illustrate the diversity of approaches to employer-supported care.

New York State: On-Site Care Statewide

Employers with widely dispersed workforces often question whether on-site child care is a feasible approach. The State of New York, with 200,000 employees in numerous locations, has committed itself to establish a statewide network of on-site services for its employees. At present, the state operates 18 centers, with more in the planning stages.

New York first became involved in child care in 1973, when the collective bargaining agreement with the Civil Service Employees Association provided for establishment of a day care center pilot program at state institutions. Under its current contract with the CSEA, the state agreed to continue the development of on-site facilities by the Statewide Labor-Management Day Care Advisory Committee, which was started in 1981. The contract requires the state to commit $200,000 annually to the Statewide Committee, which uses the funds to pay the start-up costs for each center.

The state provides equipment and supplies to the centers, along with incorporation fees, initial insurance premiums, and the salary of a director prior to center opening. In addition, space in state buildings is provided rent free, where available. After the initial state grant, each center is expected to be self-supporting, and must set fees high enough to cover all costs. The start-up grant is $19,550 for a 30-child center plus $300 for each additional child.

Sixteen of the centers are located at state mental health facilities, such as the Syracuse Developmental Center. At Syracuse, where 800 employees serve developmentally disabled and mentally retarded residents, a 30-child center operates seven days per week, from 6:30 a.m. to 5:30 p.m. According to the child care center's director, Sharon Schantz, operating costs are about $4,000 per month. Employees pay between $45 and $65 per week, depending upon income. The center serves infants and children of preschool age, and has a waiting list of 10 infants and five toddlers.

The Syracuse child care center, like the others throughout the state, is operated by a board of directors comprised of Developmental Center staff and management representatives. Its seven-member staff, including the director, is employed by the corporation under which the Syracuse center is formally organized. That corporation, in turn, was required by the state to become a subsidiary of Empire State

Day Care Services Corporation, a non-profit entity that is charged with general oversight of all 17 centers.

Both labor and management representatives pronounce themselves satisfied with the operation of the state centers so far.

"The emotional stress is greatly lessened for the employees," says Robert Whiting, a union representative on the Statewide Labor-Management Day Care Advisory Committee. The centers help parents maintain "a greater closeness with their children," he adds.

Whiting claims the day care program has become a recruitment tool for the state, with employees indicating a strong preference to work at facilities with child care. Some employees have refused transfers to institutions without child care centers, he says.

According to Margaret Doolin of the Governor's Office of Employee Relations, who chairs the Statewide Committee, on-site child care has led to improved morale, decreased absenteeism, and higher productivity. The only disadvantage, she reports, is that care cannot be provided in some locations because no space is available. "The demand is incredible. There is no way currently we can meet the demand that's out there," Doolin says. She notes that when the state announced it was opening a center for 112 children at an Albany office complex, it received 800 applications.

"There is no way currently we can meet the demand that's out there."

Doolin says the greatest demand is for infant and toddler care, where costs are highest because of required staffing ratios. "People who are in day care as a business generally don't accept children until they're older," she notes.

The process of planning a new center in a state facility typically lasts from two months to one year. The first step is formation of a joint labor-management committee, which conducts a needs assessment. The director of the facility must agree to make space available for the day care center, and the space must pass inspection by the New York Department of Social Services.

A proposed lease, a description of the type of program to be operated, a list of equipment needs, and an estimate of renovation costs must then be forwarded to the Statewide Committee, along with a budget for the first two years. Before approving the center or authorizing state start-up funds, the Statewide Committee requires evidence of the proposed center's ability to maintain financial self-sufficiency. Centers are expected to reimburse the state for renovation costs, without interest, over a five-year period.

The state facility hosting the child care center is expected to bear the center's fixed costs of operation, including utilities, maintenance, and cleaning. The state also requires that the centers be used only by children of state employees, except on a temporary or occasional basis.

Northside Child Development Center: A Consortium Abandoned

Fourteen years ago, a group of Minneapolis employers launched one of the country's most ambitious efforts to provide employee child care. Today, the Northside Child Development Center is still in business, but it has no relationship to employer-supported child care.

The center, originally a product of Minneapolis-based Control Data Corporation, was started in 1970 to provide child care for employees at the company's first inner-city plant. The plant had been located on the city's near northside in an attempt to help the company meet equal employment opportunity requirements and also to help alleviate urban decay. During a study in the late 1960s, Control Data discovered that lack of child care in the plant's neighborhood was a major cause of employee turnover and worker dissatisfaction.

Gary Lohn, a personnel researcher for Control Data, said at that time, "In that electronic assembly plant most of our people were female heads of households. They could not always get a babysitter. Very often Mama was forced to decide in the morning, 'Do I stay with my kids or do I go to work?' Most often they made the right choice and did not leave the children alone."

Because of the unusual nature of the plant, Control Data decided to establish a corporate day care center. After a survey, a need for 100 places was determined. In August 1970, the center opened to all plant employees' children between the ages of two and six. A sliding fee scale, based on ability to pay, was used to defray part of the cost. Control Data subsidized the operation, and some employees were eligible for federal assistance.

However, economic conditions forced cutbacks at the plant before the center opened, and initial enrollment was only 12 children. Community residents approached the company and suggested the center be opened free of charge to neighborhood children. Control Data, which had sustained a $40 million loss in 1970, rejected the idea; instead, it proposed to 30 other firms that they join a consortium of Northside Child Development Center supporters.

Other firms were attracted to the consortium, particularly as Control Data pointed out that the center could help the employers meet equal employment opportunity requirements by making them more attractive to black residents of the area near the center. In return for a payment of $3,000 to $5,000 annually, each employer was promised a position on the center's board and guaranteed five slots for employees' children. Farmers and Mechanics Savings and Loan, the Federal Reserve Bank of Minneapolis, Lutheran Brotherhood Insurance Co., Northern States Power Co., Northwestern Bell Telephone Co., Pillsbury Co., and Dayton's, a local department store, joined the consortium.

The group then sought federal subsidies, which could be granted only to non-profit organizations. To qualify, the center was reorganized as a wholly owned, non-profit subsidiary of Control Data Corp., with its own board of directors. As a Control Data subsidiary, the center would continue to take advantage of free accounting and legal help, while employees of the center qualified for Control Data's fringe benefit programs.

Enrollment grew to 120, making Northside one of the largest employer-supported child care programs in the country. A preschool breakfast program was

started; children through age 13 could receive breakfast at the center, transportation to school, and transportation back to the center at 3:00 p.m. The added service generated revenues of $2.75 per child per day, and also helped the center meet a need its original program did not. As researcher Lohn explained at the time: "From an industrial point of view we found that taking care of children between two and six years old wasn't enough. If the employee had a year-old baby and an eight-year-old child we hadn't taken care of her child care problem."

As participation by employees declined and community enrollment grew, the center became increasingly dependent on government subsidies. By 1976, the Northside Child Development Center, still a non-profit subsidiary of Control Data Corp., had become a community-based operation. About 10 percent of the center's revenue now comes in the form of grants from local employers, with no employee subsidies.

"The Northside manufacturing facility did not yield enough children to support the center, so the center was forced to look to the broader community for support," says Judy Alness, Control Data's director of public affairs. Of the 120 children now enrolled, only 12 are the children or grandchildren of employees at the Northside plant. As center director Julie Bermeister explains: "The workforce at the plant has remained relatively stable over the last decade. As a result, few of the employees have children young enough to enroll in the center."

Control Data continues to provide financial assistance and in-kind services to the child care center. However, the company does not offer child care benefits to employees.

Shadelands: Day Care on a Shoestring

For three tenuous years, the Shadelands Children's Center in Walnut Creek, Calif., was one of the few employer-initiated child care centers operating without government assistance in the San Francisco Bay area. But although employers started it, fewer than a third of the 60 children enrolled when the center closed its doors in June 1984 had parents working at one of the four corporate sponsors.

Shadelands got its start in 1981 as a glimmer in the eye of Richard Fidler, personnel director of Zehntel, a high technology company making test equipment for the electronics industry. Zehntel employs about 450 people at its headquarters and plant in a neat, low-rise business park in Walnut Creek, a suburb 27 miles northeast of San Francisco.

Like other firms trying to compete for skilled technical personnel, Zehntel management holds periodic meetings with employees to solicit suggestions for improving working conditions. It was at one of those meetings, in 1981, that Fidler says he became aware of a need among some employees for reliable, reasonably priced child care. In addition, he says, the film "9 to 5" made him more aware of the child care issue, since the company's workforce is 45 percent female and the labor pool from which it expects to draw future employees is predominantly female.

Zehntel first considered an on-site center, but abandoned the idea because state licensing requirements would have necessitated major renovations for a facility that would have been used by only a handful of children. Instead, with encourage-

ment from the Contra Costa County Children's Council, Fidler approached other firms located in the same office park about establishing a joint center.

Buoyed by a show of interest from a dozen companies, Fidler and others searched for a site. The developer of the office park refused to provide space for the center, and other potential sites at schools and churches failed to work out. Finally, in mid-1982, the local school district agreed to lease a portion of a closed elementary school to the center at 35 cents per square foot. By that time, however, only four of the original 12 interested employers remained.

The four firms incorporated a non-profit organization, the Shadelands Children's Center, Inc., to enable employers to make tax-deductible donations to the center. The tax-exempt status was also useful in dispelling notions that the companies were profiting from child care, which proved to be a widespread belief among employees.

Fund raising started early in 1983, but only $30,000, less than half the amount needed to start the center, could be raised among the four employers. Zehntel donated $5,000, Safeway Stores and the *Contra Costa Times* each contributed $10,000, and the City of Walnut Creek, as an employer, made a $5,000 contribution. A board was formed, chaired by an academic child care expert, but including representatives of each of the four corporate sponsors. Despite the hopes of the original sponsors, no other firms joined their ranks.

The result was underutilization. Originally, the sponsors planned to each reserve a certain number of child care slots for children of their employees. When it became apparent that too few employees' children would use the center to sustain it, Shadelands was opened to the community at large. The center quickly reached its capacity of 60 children, but only a third were children of employees of the sponsoring firms. The only preferential treatment accorded employees' children was top priority on the waiting list.

Fidler suggests the main reason for low employee participation was that none of the employers provided subsidies to workers whose children used the center. As a result, tuition was comparable to that in other Bay Area centers, ranging up to $400 per month for infant care. In consequence, Fidler says, highly paid employees were the major users of the center.

On June 1, Shadelands was forced to close because the school district sold its building. The employer-sponsored corporation that ran the center remains in business, however, and is currently seeking a site at which to reopen. Zehntel and the other employers remain committed to providing employee child care, Fidler says, but are seeking government grants to reduce costs. A professional fund raiser will be engaged to seek additional financial support.

What happened at Shadelands? The center did what it set out to do, Fidler says, providing high quality care and educational programs for children between the ages of six weeks and five years. It was reasonably convenient to the worksite, less than a mile and a half away. Perhaps employees avoided it because they had prior arrangements. Or, the bottom line may have been money.

Fidler admits the center was underfinanced; it raised less than half the amount projected as needed to get started, and initial fees were set too low. Later, filled to capacity by children from outside the sponsoring firms, it lacked money to expand

and perhaps attract more children of sponsors' employees. If Shadelands reopens, Fidler says, a greater employer commitment is needed. Employers have been reluctant to join the Shadelands effort, he says, because they fear it is the beginning of what could become a very expensive employee benefit, like medical insurance. However, he notes, such a benefit may be needed to attract new workers over the next decade, when 70 percent of the people entering the workforce are expected to be females. "If businesses want to be able to attract that workforce, they are going to have to do something," he contends. "Our profile in the community is what's important to me, as well as our ability to attract top-flight employees."

Chinatown: Public-Private Partnership

In a red brick building on Chrystie Street in New York's Chinatown, 77 children are enrolled in an employer-supported center operated under a unique partnership with a labor union and the City of New York.

The center, designed for the children of Chinese apparel workers, was established in 1983 by the Greater Blouse, Skirt, and Undergarment Association, which represents 650 employers in the apparel industry. During contract talks with the Association in 1982, Jay Mazur, then manager of International Ladies Garment Workers Union (ILGWU) Local 23-25, proposed an employer-sponsored facility for child care. The Association refused to deal with the issue in negotiations, but pledged to seek solutions after the contract was settled.

Day care faced severe difficulties in Chinatown. The 400 employers in the area, subcontractors making clothes on order for apparel manufacturers, are small operators, averaging 40 employees each. Work is often sporadic. The 18,000 members of Local 23-25 earn approximately $6.00 per hour, not enough to pay for care in commercial centers, which in New York costs an average of $75 to $120 per week.

After the contract settlement, the union put together a nine-page questionnaire on child care. Unionists conducted interviews by telephone, gathering 500 responses. The results showed a strong preference for center care, surprising observers who expected the working-class families to prefer a less-formal style of care. According to Susan Cowell, union coordinator of the project, many of the Chinese women who were unhappy with arrangements to leave their children with friends or family members wanted an educationally oriented program so their children could learn English.

"We talked about most of the things," such as information and referral services, Cowell says, "but we didn't think they were going to meet the demand." The employers agreed that a center was sensible, since a city-owned building constructed as a day care center was sitting vacant due to New York's financial problems. "There really were no options," relates Harold Siegel, executive director of the employers' association. "The building was there and it was going to waste."

However, the union was concerned that an employer-sponsored center would run the risk of being underfunded, because the employers are small and poorly capitalized. In addition, the Association lacked expertise in day care, and might face liability problems in running a center.

A solution was found with the participation of the New York City Agency for Child Development, which had been trying to develop new models of employer-supported child care, including public-private approaches. At the request of the city, the New York Department of Social Services ruled that public subsidies could be used for a center restricted to union members, provided the employers contributed. According to Paul Larsen, assistant deputy administrator of the city agency, employer participation is crucial. "If it were not present, we would not be able to provide that service," he says.

To operate the center, the Greater Blouse, Skirt, and Undergarment Association established a non-profit corporation, giving three of the 15 seats on the board to Local 23-25. The non-profit pays the city to provide the center. The city adds public funds, and contracts with the Chinatown Local Community Development Corporation, a community-based organization, to operate the center. The operator, in turn, rents space in the city-owned building, with rent taking 14 percent of the budget.

The employers' association made a commitment to give $5,000 per month to the center, holding fund raising events to collect an initial $40,000. Two manufacturers — the larger firms to which Association members sell their products — made major donations, enabling the Association to cover the first year's expenses. Raffles, lotteries, and other events are planned to raise the employers' share during the center's second year, Siegel says.

In return, the employers wanted the center opened to children of foremen and managerial personnel. The union agreed, but Susan Cowell notes the agreement has more symbolic than practical value, since family income must be below $20,000 to qualify for public subsidy. No children of managerial personnel presently use the center.

The 77 children now enrolled were picked by lottery. The waiting list, now at 150, has been closed due to the heavy demand. Parents pay an average of $9 per child per week, depending upon income, while the City of New York pays about $42 and the non-profit corporation established by the employers' association pays $32, or about 40 percent of the cost.

The benefits of the center are hard to quantify. Susan Cowell admits the union cannot credibly argue that employers will see benefits in lower absenteeism and turnover, since most of the employers do not have workers whose children attend the center. At the center's opening, ILGWU president Sol Chaikin acknowledged that it makes only a small dent in the demand for child care, but compared it to a grain of sand that becomes a pearl. Said Chaikin: "I hope it is the first of many pearls of this kind."

The center's future, however, is far from secure. According to Siegel, the Greater Blouse, Skirt, and Undergarment Association has made a two-year commitment to support the center. Since the Association has not raised its dues, it cannot offer support indefinitely, he says. "If the project proves successful, we're hoping the city will take it over," he adds.

Agency for Child Development administrator Larsen doesn't expect that to happen. "We are not going to eliminate the cost to the employer," he asserts. "We would perpetuate the arrangement we have now."

"We would like to see the employers continue to contribute," agrees Cowell of the ILGWU. If employer support runs out, she adds, "it will close in an orderly way."

Philip Crosby: Contracting for Care

For Philip Crosby Associates, Inc., employees' concerns about their children were the spark for starting a child care benefit in 1982.

"We have a number of single parents who needed to have their children taken care of at various ages," relates Frank Robinson, senior vice president of human resources for the Winter Park, Fla., consulting firm. "We found employees spent a lot of time on the phone taking care of their kids or seeing how they were doing. We could either start a day care center on our own or find an alternative." But the firm, whose 110 employees advise corporations on improving quality and reducing defects, was far too small for on-site child care to be viable.

Instead, Philip Crosby solved its child care problems through a contract with Community Coordinated Child Care, a non-profit organization based in Orlando. When an employee needs child care, a counselor from 4C's, as the non-profit is known, meets with the parent to determine the needs. The agency then arranges placement in one of the 90 child care centers with which it subcontracts in a three-county area. Philip Crosby pays $25 per week for the care, plus $2.50 per week to 4C's for each employee using the benefit. The employee pays the difference between the company's subsidy and the cost of the center selected. With child care averaging $50 per week in the Orlando area, the subsidy pays roughly half the cost of care.

The arrangement relieves Philip Crosby Associates of all responsibility for decisions related to care, such as determining which child care centers are suitable. "They inspect all the places and make recommendations as far as what the child wants," Robinson says. "We follow the criteria 4C's has set up, which is basically the national guidelines." To qualify for the 4C's list, the center must meet state licensing standards and pass inspections by the agency's staff.

According to Bruce Krieger, assistant to the administrator of 4C's, the agency is not a referral service; rather, it provides information to parents on which centers meet the specifications the parents set. "We do not want to get into the business of recommending centers," he says. "That's for the parents and their child to decide." Instead, 4C's gives the parents a list of possible centers; the parents visit each center and make their own decision, based on location, cost, services provided, and other factors. The main screening effort by 4C's is to determine whether family income is low enough to qualify for public child care assistance as well.

Community Coordinated Child Care runs a separate program, funded by government grants and charitable contributions, to find care for families meeting income standards set by the state. However, according to Krieger, the employer-supported program is operated independently, and its costs are fully covered by a fee, amounting to 10 percent of the subsidy, charged to the employer. At present, five Central Florida companies have signed up for the program, with a total of 25

employees participating. Subsidies for full-time employees range from 25 percent to 50 percent of the cost of care.

"What we're promoting to employers is the idea that if you would support your employees' child care costs, it may benefit you with decreased absences, decreased turnover, increased morale," Krieger says.

At Philip Crosby Associates, an average of three to four percent of employees have used the benefit, but Robinson says that figure represents 80 percent of employees with children under age 14. The cost to the company, he says, averages $400 to $500 per month.

"The increase in work efficiency among people with children in that age group is phenomenal," Robinson says. "It cuts down telephone calls between parents and children unbelievably in the summertime. The kids call every 15 minutes to settle squabbles." The program has not generated any complaints from employees without children, he adds.

Robinson expresses no second thoughts about Philip Crosby's approach to child care. "The ideal thing is to have an on-site day care center, but you have to have seven or eight thousand employees to do that. This is ideal for small and medium-sized companies if you've got somebody in the community who can help you. The cost is minimal. I can't understand why everyone doesn't do this."

International Paper: Commitment at Minimal Cost

At its corporate headquarters on New York's Avenue of the Americas, International Paper Co. has given an outside contractor a starring role in efforts to aid employees with young children.

The contractor, Child Care, Inc., provides information and counseling services to the 1,300 headquarters employees of the forest products firm. The service, established in 1983 on a trial basis, was transformed into a permanent benefit in March 1984, following favorable publicity and positive feedback from employees.

International Paper began looking into child care several years ago, after determining that several personnel problems were related to child care difficulties. On-site care was immediately rejected as an option, because of the high cost of space in Manhattan and because parents would have to bring their children into midtown on public transportation. Vouchers were not a serious option because the company has no flexible benefits program, and did not want to give some employees a major benefit that would be useless to others. Instead, the company's human resources managers decided to try to help working parents deal with their own child care needs through an information service. Explains Luis Fuentes, head of the Affirmative Action Programs Department: "Our recommendation reflected the austere economic conditions that prevailed throughout the country in 1982. We were committed to keeping our start-up efforts at a minimum cost while making an initial and ongoing impact on the child care needs of our employees."

The program was launched without a formal survey or needs assessment among employees, in part because company officials feared a survey would raise expectations that an on-site center would be provided.

Under its arrangement with Child Care, Inc., International Paper pays an annual membership fee based on the size of its workforce. Although the company

declined to divulge its fee, Child Care, Inc.'s fee schedule indicates an organization of International Paper's size would pay about $2,125 per year.

In return, the non-profit organization runs workshops at the company to educate parents on how to select a child care provider. Parents are encouraged to call or visit Child Care, Inc.'s offices for individual counseling and assistance in locating care. The organization does not refer parents to specific providers. When the service first started, according to Mary Sussilo, International Paper's coordinator of employee assistance programs, many parents had a misconception that care had to involve a center, so the company promotes home day care and family care in the employee's community as alternatives.

During the nine-month trial program, 46 employees, or 3.5 percent of the headquarters workforce, made use of the information service. Of that number, 47 percent were clerical employees, 35 percent professional employees, and 10 percent managerial employees. Nine of the users were returning from maternity leave, seven were men whose wives were returning to jobs with other employers, and 11 were people whose child care arrangements were about to change. Seven of the users were eligible for government assistance.

According to a company survey, 64 percent of employees using the service said they were "assisted" by Child Care, Inc.

As part of its services, the contractor provides information on after-school programs for school-age children and information about personal income tax credits for child care. Parents who live outside New York City are referred to resource agencies in their localities. Child Care, Inc. also offers workshops on managing parental and employment responsibilities.

Six months after the trial program started, International Paper invited 30 employees to talk about the program and their needs in two roundtable groups, one involving exempt and the other non-exempt employees. The major recommendations were for more information about company employees with children and consideration of alternative work schedules. Alternative work schedules are now under study, Fuentes says, including flexible work hours, job sharing, and work-at-home programs. The company is also investigating providing an information service for employees at two office locations in other cities, and Fuentes expects the program to grow. "Child care is coming to the forefront now because it's reaching up higher in the corporation," he comments.

Minnesota Mining: Employee Assistance

At Minnesota Mining & Manufacturing Co. (3M), child care assistance began in 1982 as a minor part of an employee assistance specialist's job. Today, the firm has a full-time child care coordinator assisting parents and developing programs to meet the needs of the company's 50,000 domestic employees.

"If a parent can feel confident on the job about the level of care his child is receiving, he will have improved morale and motivation and increased productivity," contends Sue Osten, 3M's child care coordinator. "My job is to provide parents with awareness of what to look for when searching for quality child care."

3M does not subsidize child care costs or provide on-site care. Instead, the company operates several programs to assist parents.

One major effort in the St. Paul, Minn., area, where 3M has its headquarters, is a referral service operated by Resources for Child Caring, Inc., a non-profit organization. When a parent calls or visits Osten with a child care problem, she contacts Resources to obtain referrals to specific care providers. Osten then works with the parents to make sure the problem is solved. The service is provided under a fixed-rate contract, which is less costly than Resources' standard rate of $18 to $20 per referral.

Included in the referral package is an evaluation of providers. Debra Fish, director of development at Resources for Child Caring, notes that employers are concerned about quality of care, and do not want to support bad programs. Less than 10 percent of employees find care at traditional centers, with the remainder placing their children in family day care homes or in small group arrangements, she says.

Because 3M employees complained of a lack of infant care in the area, the company provided a one-time grant to a child care facility located near the 3M Center to expand infant care facilities. Now, 30 percent of the center's clients are 3M employees, and other centers were stimulated to provide infant care as well. But 3M does not urge parents to use a specific center; as Osten explains, "We strongly believe in parent choice and prefer to support community networks."

In the summer, 3M sponsors a day camp program for employees' school-age children. Parents can drop off their children at a park near the 3M Center, where a bus picks them up and takes them to the St. Paul Science Museum for classes taught by 3M technical employees. The children then spend time at the St. Paul YMCA in the afternoon, before being taken back to the park for parent pick-up. Parents pay the full cost of the program, with the company coordinating the activities.

The company's newest effort is to provide in-home sick care for employees' children. In cooperation with Children's Hospital in St. Paul, health care workers are sent to the homes of parents whose children have contracted common childhood illnesses, such as chicken pox or influenza. 3M pays half the $4.00 per hour fee for the home care worker, plus all of the $2.25 per hour administrative fee charged by the hospital.

The program, which is still in the pilot stage, has generated considerable employee interest, Osten says. No figures on use are available, but the program is expected to reduce employee absences. It was developed after a study by five Twin Cities employers found that some children experience as many as six or seven viral infections per year.

Along with these programs, 3M has sponsored parenting seminars for its 16,000 St. Paul area employees, and arranged a community child care fair to publicize services available in the community. Other approaches are under consideration. "Our program is still evolving, but our goal is always to aid in employee development," Osten says.

While 3M develops its own seminars, other Twin Cities employers contract with Resources for Child Caring to run worksite programs at $175 per session. Tom Copeland, director of employer services for Resources, emphasizes that the programs are not simply lectures, but involve discussions, exercises, and other

forms of employee participation. The organization also operates seminars for managers, designed to help them deal with employees who have problems related to child care. "In most firms," he notes, "it is every supervisor for himself."

First Atlanta: Company Control

First Atlanta Corporation, Georgia's second-largest bank holding company, began studying ways to provide corporate-sponsored child care two years prior to opening its own on-site center in August 1983. From the earliest stages of planning, says First Atlanta vice president of human resources Marcia H. Calhoun, the company's overriding concern was providing child care of the highest quality. To ensure that goal was met, the company made the decision — unusual for a financial corporation — to operate the center itself.

"Our objective was to have control over this center," Calhoun says. "A lot of places say they provide quality care, but quality here is plain to behold."

From the beginning, First Atlanta considered only on-site care. After a survey of 2,500 of the company's 4,200 employees documented a demand for child care, company officials visited other corporate centers to find an appropriate model. First Atlanta decided to pattern its facility after that at Intermedics, a Freeport, Tex., manufacturer of medical devices that has operated a large on-site center since 1979.

Since a third of the firm's 3,500 Atlanta-area workers are employed at its operations center north of the downtown area, First Atlanta renovated a nearby apartment building for its center. Start-up costs totalled $130,255, including renovations. The 2,200 square foot center is licensed to care for 40 children.

At present, three teachers and a director care for 22 children aged 2½ to 5 years and for 10 toddlers. Employees pay $38 to $42 per week, depending on the age of their child. A second child from the same family is admitted at a 20 percent discount. Lunch and two snacks are included in the fee. The center also provides part-time care at a rate of $8 per day for children aged 2½ to 5 years and $10 for toddlers between 15 months and 2½ years. Infants under 15 months are not presently accepted at the center.

Because the program is relatively new and the company has not publicized it aggressively, the First Atlanta Learning Center has yet to reach capacity and is not yet self-supporting. First Atlanta intends, however, for parent fees to cover the entire $100,000 annual operating cost after the center reaches capacity later in 1984. According to Calhoun, the company will consider expanding the center's size and instituting infant care to make it self-sustaining.

The center is used solely by children of First Atlanta employees. At present, no night or weekend care is provided, since the company's initial survey indicated little demand. As enrollment grows, however, longer operating hours will be considered.

Parents of children enrolled at the center are encouraged to participate in a parent advisory group, which has already come up with recommendations leading to adjustments in the center's operation. The advisory group originally proposed offering care for toddlers, and is now pushing for infant care. Part-time care was

also started at the advisory group's request, and the group has sought changes in the educational program, such as field trips for the children.

For employees at other locations, First Atlanta contracts with a local child care consultant to provide information and referral services. The company is also studying inclusion of child care in its flexible benefits program.

First Atlanta has not yet evaluated the benefits of its Learning Center, but company officials are generally satisfied with the choice they made. Says Linda C. Tout, the center's director, "This is one approach that companies can look at. It might not be the best for all companies, but it certainly is for First Atlanta. It's very comforting to know that your child is only a couple of hundred feet away."

According to the American Bankers Association, First Atlanta is the first banking organization in the country to operate an on-site day care center.

Comerica: Care through CustomComp

When Comerica, Inc., a large Detroit bank holding company, adopted its flexible reimbursement plan in late 1982, 95 percent of its 5,500 employees elected benefit packages that differed from the previously standard plan.

"That means our old ones really weren't doing the job," observes personnel officer Doreen F. Rudge.

The Comerica package, called CustomComp, includes as one of its options a child care reimbursement plan, which provides for a reduction of taxable salary to pay child care expenses. About 200 employees, representing between three and four percent of the company's workforce, have elected to establish a Childcare Reimbursement Account, Rudge says.

CustomComp is "purchased" or elected by the employee in two ways — with "benefit credits" and "salary credits." Each employee is given what the company calls a standard plan, including medical insurance, life insurance worth twice his annual salary, and disability insurance.

If an employee chooses to take little or none of any of the standard items, he receives a benefit credit that may be applied to other benefits. In addition, the employee may choose to convert salary to salary credits, which allow for purchase of benefits out of pre-tax income rather than after-tax income. Other benefits available include extra vacation, dependent life insurance, a capital accumulation plan, disability insurance, and child care reimbursement.

The child care reimbursement benefit may be used only for children under 15 years of age. The care may be provided inside or outside the home, but not by a dependent of the employee. If the service is provided by a facility that cares for more than six children at one time, it must have a state license. In addition, the service must be necessary for the employee to work, and the amount reimbursed must be less than either the employee's or the spouse's annual income.

Initially, the employee requests a specific amount to be deposited each pay period in a child care reimbursement account. The employee must provide a form listing the children's names and ages, along with copies of birth certificates and a copy of the spouse's W-2 form. Comerica does not attempt to verify the informa-

tion provided. "The employee signs a statement that the information supplied is true, and it is thus his or her responsibility," Rudge explains.

The employee's biweekly salary check is reduced by the amount requested. To obtain reimbursement for expenses, the employee must present a receipt showing the child's name, the provider's name, the amount paid, and the dates on which service was provided. Originally, the company allowed employees to receive unused benefits in cash, but that practice was discontinued after the Internal Revenue Service objected to such provisions early in 1984.

Comerica has specified that such activities as music lessons, athletic programs, and YMCA recreational programs are not eligible for reimbursement.

Participation among employees of the $8.7 billion holding company is less than anticipated, according to Rudge, even though child care was included in the flexible benefit plan to meet the needs of the 75 percent of bank employees who are female. "Management felt it would be an attractive benefit to a largely female workforce," she explains. But, Rudge suggests, many employees are leery of the program because of the receipts required. "If they're paying Aunt Matilda, she may not be declaring their payment as income, and they don't want to get her into trouble," she comments. "We feel there are some employees who could be using the account who are not."

Norfolk: Child Care at Home

At the Humana Bayside Hospital in Virginia Beach, Va., a service linking parents with private day care homes has been the major step in assisting employees with child care.

"We were looking for a way to verify the credentials of babysitting services and child care services in the area," explains Fred Schneider, the hospital's director of personnel. "We get a lot of information calls to the personnel department about that, and we weren't able to verify it. Child Care Assistance Services here in the Tidewater area have kind of filled that gap by checking out people and setting up standards. We could refer our employees to a fairly respected member of the community."

The program in the Norfolk area is run by The Planning Council of Norfolk, a private, non-profit social service agency that, among other activities, is licensed by the Commonwealth of Virginia to monitor and approve private day care homes. For the past two years, the agency has contracted with area employers to refer their employees to homes in the Norfolk area.

Such homes are run by the owner at his or her own residence and may, in Virginia, provide care for up to six children. In many states, family homes are not licensed, making it difficult for parents or employers to judge quality. The Planning Council's Child Care Assurance Plan provides that council staff will inspect the homes and will provide 22 hours of training to operators. "We continually monitor the homes," says The Planning Council's Katheryn Wolfe. "We feel we have a professional alternative to offer."

Employers using the service pay an annual membership fee based on the number of children under age 14 in the families of employees. Parents seeking

care are referred to Wolfe's office, where a counselor discusses their needs with them. The service then recommends three homes to the parents, who are responsible for meeting the providers and determining which home they wish to use. The care, which costs $40 to $60 per week, is not subsidized, but the parents may receive a reduced rate from the provider if their employer is a member of the program.

"We have a lot of advantages," Wolfe observes. "We can arrange evening and weekend care. We have a 24-hour line where we can provide home care for sick children. We require the provider to purchase an insurance plan."

Marketing the program is the responsibility of employers themselves. At Humana Bayside Hospital, where brochures on the service are available in the personnel office and have been distributed with pay checks, about 12 of the 580 employees have used the Child Care Assurance Plan. The plan is not advertised as a benefit in recruiting efforts.

Schneider is pleased with the program. "I really don't have to get involved. I have a referral I can make for my employees," he says, adding that staff time spent on child care concerns is almost nil. "This is one of the best ways we have found that does meet the anxiety a parent might have about finding care for children."

Sovran Bank, a large bank holding company based in Norfolk and Richmond, has made the program available to its employees for two years after rejecting a proposal to subsidize care in the homes. "We met with our chairman, and he had some concerns about subsidizing employees in one geographic area while we are a statewide organization," says Ray Hinton, the bank's vice president for personnel. Making a lump-sum contribution to the Child Care Assistance Services got around the bank's concern about subsidizing individual employees, Hinton says.

The service, however, has been little used. In two years, 17 Sovran Bank employees have participated, slightly over one percent of the 1,500 Norfolk-area employees. "I would have thought it would have grown more rapidly," observes Hinton, who attributes the slow growth to the fact that many employees have child care arrangements of long standing.

Shortly after the program began, Hinton sent bank employees to inspect the homes licensed by the Child Care Assistance Services. The inspectors found that many of the homes "appeared to be on the lower end of the economic spectrum," a circumstance he attributes in part to the fact that the program was new and few providers had signed up. "We were not totally satisfied with what we saw, but we weren't dissatisfied enough to pull out of the program," he says. Hinton adds no employees have complained about the quality of the care.

In January 1984, Sovran Bank started a flexible benefit program, which allows employees to select among dependent care expenses, uninsured medical expenses, and legal expenses as benefits paid from reimbursement accounts. The child care reimbursement plan is designed to complement the referral service, enabling parents to use the account to pay for approved family home care. Further steps, such as on-site care, have been rejected because of the dispersion of the bank's employees in over 300 locations.

"Right now we're happy with the flexible benefit program as being a reasonable level of involvement in the dependent care issue," Hinton says. "We continue to view The Planning Council as an innovative, experimental pilot program. We're prepared to participate, recognizing that it's going to be a long time before it's a significant presence in this area. We look at our involvement there as a venture capitalist might."

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VIII. LIABILITY ISSUE

Employers considering establishment of a child care benefit often express concern about potential liability arising from problems either at an on-site center or at a facility to which a contracting agency has referred an employee. Says Dana Friedman of The Conference Board, "Liability and equity are the first two questions I get."

According to Kathleen Murray of the Child Care Law Center in San Francisco, no employers have lost suits relating to child care benefits. "It's a fairly new phenomenon, and even newer is the employer participation," Murray says. "There really isn't anything yet. They're concerned and right to protect themselves, but in terms of actual litigation there isn't anything."

Liability arising from on-site centers is easiest to deal with. Often, such centers are covered under the employer's existing insurance, or can be included for a small additional premium. In the case of family day care homes, employers typically protect themselves by contracting with a network, which in turn requires member homes to maintain liability insurance and to train providers in safety, first aid, and other subjects.

The issues become more complex for an employer-sponsored referral service, which has no actual control over the facilities to which employees are referred. "There's some risk in making a recommendation," Murray advises. "Some employers want to do that, but there is some danger in that. In California, most of the public referral agencies do not make recommendations. They simply give parents a list, and include a disclaimer that it's the parents' responsibility to select the care for their child." Risk can be reduced if the referral agency requires all centers on its referral list to maintain liability insurance.

Murray advises employers offering reimbursement programs to require a written agreement signed by the employee, specifying that the employer is not responsible for injuries that may occur while the services are being provided. If the employer directly pays the child care provider, a written contract between employer and vendor can clarify the vendor's responsibility for child health and welfare, and clearly establish that the child care provider is an independent contractor not related to the employer.

Only a few employers provide home care for sick children. "There is a higher risk where you're providing care for sick children," Murray points out. "Who knows what kind of illnesses they've got. What kind of responsibility do you have to keep contagious diseases from spreading? What happens if the child gets worse and somebody needs to call a doctor? It seems to me it's a good idea to set in motion some precautions, like having a nurse check in daily." Such programs should be developed and operated under competent medical supervision, she advises.

IX. EMPLOYER POLICIES TO AID EMPLOYEES WITH CHILDREN

As the issue of child care assumes greater importance to workers, particularly the members of the "baby boom" generation who are now becoming parents themselves, many employers have modified their personnel policies to accommodate working parents. This chapter examines some of the policy changes now becoming common.

Flexible and Compressed Work Schedules

Non-traditional work schedules have become the most popular means of accommodating parents with children. Flexible work hours, popularly called "flextime," allow each employee to select his or her own work hours, provided the employee works a specified number of hours each day and is present during "core hours" set by the employer. A variation, compressed work schedules, allows the employee to work the regular number of hours weekly, but over a three-day or four-day period rather than on five separate days. The most common form of compressed work week is four ten-hour days. While alternative work schedules are popular for a number of reasons, including easier commuting and the opportunity for three-day weekends, child care considerations are a major reason for their use.

Use of flextime is growing rapidly. According to a 1978 study by S. Nollen and V. Martin, 12.8 percent of all nongovernmental organizations employing 50 or more workers in 1977 made flextime available to at least some employees. However, *BNA's Personnel Policies Forum Survey 138*, published in July 1984, shows that 32 percent of 195 employers surveyed have established flexible hours in the last five years. According to the PPF survey, 22 percent of manufacturing firms, 28 percent of non-manufacturing firms, and 53 percent of non-business employers allow at least some of their workers to set flexible schedules. By size, 41 percent of the 92 large employers surveyed offered flextime, along with 24 percent of the 103 smaller employers.

Sixteen percent of the firms surveyed by BNA permit compressed workweeks. Compressed work weeks were offered by only 14 percent of manufacturers and 9 percent of non-manufacturing businesses, but were available at 25 percent of non-business employers. Among large employers, 21 percent offered a compressed workweek to at least some workers, compared to 12 percent of small employers.

Personnel executives expect the trend toward flexible hours to continue. According to a study for the General Mills Corporation released in 1981, two thirds of employee benefits officers surveyed expected their firms to adopt more flexible work schedules by 1985.

The most extensive study of flextime to date was contained in a report by the U.S. Office of Personnel Management in 1981. OPM surveyed 325,000 federal

employees enrolled in one of the 1,554 alternative work schedules experiments conducted in 20 different federal agencies under a three-year pilot test of flexible and variable arrangements. The interim report on the program found that the ability to set their own schedules was considered "very to somewhat important" by 93 percent of all employees surveyed, and by an even higher percentage of single parents. Single parents appeared to prefer schedules in which they worked longer days, but earned three-day weekends either every week or every other week. A total of 83 percent of single parents surveyed felt it was very important to have more time with their families.

OPM noted that the freedom to set work schedules enabled employees to spend less money for baby-sitting services, more time on household chores, more time with their families, and more time participating in children's school activities. Some 63 percent of employees on flexible schedules "feel this schedule is most compatible with quality care for children and other dependents," OPM found, noting that the data "strongly suggested that AWS [alternative work schedule] allows employees workable alternatives to enhance the quality of family relationships and child care."

The alternative schedules reduced the need to use short-term leave for child care, the study found. About half of those surveyed reported that their use of short-term leave either decreased or decreased greatly under the alternative scheduling arrangements. Employees working compressed schedules "seldom or never change their work schedule for child care during school vacations or holidays," the report noted.

While OPM's interim report called for continuation of the three-year pilot program on a wider basis, the agency's final report was more lukewarm. The final document endorsed permanent alternative work schedules programs "as long as there are provisions to assure appropriate management control and to permit correction or termination of schedules that subsequently are found not to be in the public interest." Federal employee unions fought OPM's desire that any permanent legislation give managers the right to unilaterally terminate alternative schedules. Eventually, Congress passed legislation extending the pilot program, with certain changes, for three more years.

Private sector unions are also beginning to reflect their members' desire for flexible schedules. For example, the largely female staff at Philadelphia Legal Services went on strike in 1982 to gain flextime in their collective bargaining agreement. David Fair, representative for District 1199C, National Union of Hospital and Health Care Employees, told BNA that at that time, there were a large number of pregnant women on the staff who later found flextime very useful. In new negotiations in 1984, management sought to eliminate the flextime provision, but the union again threatened to strike if it were not included in the contract, Fair says.

Maternity Benefits

"A major development of the 1970s is that a leave at the time of childbirth, albeit a brief one, became available to most workers," observed a Columbia University study of maternity policies published in 1984.

That finding was confirmed by BNA's Personnel Policies Forum in June 1983. According to the PPF survey of 253 employers, approximately 90 percent of firms make unpaid maternity leave available to employees. The most common length of maternity leave was six months, although more than one fourth of employers responding said they have no maximum limit on maternity leave. About half of the employers count unpaid leave towards the employee's seniority, while 86 percent guarantee the employee the same or a comparable job upon return from leave. Policies on maternity leave for plant and service employees, office workers, and managerial employees were almost identical in the firms surveyed.

Nearly two fifths of employers reporting have no minimum service requirement for granting leave to managerial personnel, while about a third have no minimum requirement for plant or office personnel. Fewer than one fourth of the employers require more than six months' service before granting maternity leave, with manufacturing firms generally having slightly shorter requirements than non-manufacturing businesses or non-business organizations.

Somewhat different results were obtained in a 1981 study reported by Sheila B. Kamerman, Alfred J. Kahn, and Paul Kingston. Their survey of approximately 250 firms indicated that 88 percent provide maternity leave, but only 72 percent formally guarantee employees the right to the same or a comparable job upon returning from leave. The survey found three months to be the most common amount of leave allowed; 61 percent of firms sampled restrict maternity leave to three months or less, compared to about one fourth in the BNA survey. Leave provisions are most generous in firms with over 500 employees, the researchers found. Almost all employers continue life insurance, health insurance, and pension benefits during the period of leave.

Kamerman and colleagues estimate that less than one third of employed women were entitled to leave with pay during maternity in 1978, and that such women could count on an average of six weeks of benefits.

A recent court ruling may have a significant effect on one major maternity benefit, the right to return to the same or a similar job. In *California Federal Savings and Loan Association v. Guerra* (U.S.DC C.Calif., 34 FEP Cases 562, March 21, 1984), a federal judge overturned a six-year-old California law requiring that a woman returning from maternity leave be reinstated to the same or a similar job. Because it requires "preferential treatment of females disabled by pregnancy, childbirth, or related medical conditions," the California statute discriminates against men and is preempted by Title VII of the Civil Rights Act of 1964, Judge Manuel Real ruled. He declared inoperative those provisions of the law, including a requirement that employers give a four-month leave to pregnant employees.

Paternity Benefits

Far fewer firms make provision for child care leave for male workers than for female employees.

According to the 1983 BNA survey, approximately two fifths of the firms questioned allow male employees to take time off from work for the birth of their children. Among those firms, nearly half allow employees to use annual leave for

paternity purposes, while less than two fifths allow use of sick leave. One fifth of the companies that provide a paternity leave allow employees to take unpaid paternity leave.

Unpaid paternity leave is most common in manufacturing situations, with 26 percent of firms that offer any paternity leave allowing it to be in the form of unpaid time off. The maximum amount of unpaid paternity leave granted ranges from five days to one year for plant workers, with a median of 90 days. For office workers, unpaid leave ranges from two days to a year, with a median of 90 days, while the median for managerial personnel is four months.

Paid sick leave is authorized by 40 percent of the employers for office and clerical employees on paternity leave, compared to 37 percent for managerial employees and 32 percent for plant and service employees. The provision of paid sick leave for paternity purposes is more common among small companies than among larger firms. By contrast, firms with over 1,000 employees are more likely to grant annual leave to employees for paternity reasons.

Among the firms offering some paternity leave arrangement, almost one fourth indicate "other leave provisions," often involving the use of paid personal leave or special leave arrangements subject to specific approval of supervisors.

Adoption Leave

Adoption leave is far less common than maternity and paternity leave. The absence of provisions for time off from work upon adoption of a child has become a major issue with adoption groups across the country, and is starting to appear in court cases and arbitration awards. In one recent arbitration case involving a local government employee in Pennsylvania, the arbitrator held that maternity leave language in a collective bargaining agreement covers all employees who become mothers, not simply employees who become pregnant. There are no differences in the duties of natural and adoptive mothers, the arbitrator found, and the employer's maternity leave provisions should apply to an adoptive parent because the leave is principally for the purpose of establishing a relationship between parent and child, not for medical recovery from childbirth. (*Ambridge Borough*, 81 LA 915, FMCS Case No. 83K/23823, Oct. 25, 1983)

On April 8, 1984, the Maryland legislature passed a bill giving all state employees who adopt children the right to use accumulated sick leave for child care purposes. This right previously had existed only for employees absent on maternity leave.

One fourth of firms responding to the BNA survey reported policies of providing leave to employees who are adopting children. Of those firms with some leave policy, 77 percent offer time off without pay; limits on such leave range from two weeks to a year, with a median of six months. The remaining firms offer paid leave for adoptive parents, usually depending upon the amount of leave the employee has accrued. Personal leave is the type of paid leave most commonly authorized for this purpose.

Other Policies

Modifications in other benefits to help employees with their child care arrangements also are becoming more common.

Growing numbers of employers are allowing workers to take sick leave to care for sick children. According to the 1983 BNA Personnel Policies Forum report, nearly two fifths of employers surveyed allow sick leave to be used for care of a sick child. The benefit is provided in 43 percent of larger firms, compared to 32 percent of firms with fewer than 1,000 employees. It is most common in manufacturing industries, where it is provided to 45 percent of employees. Nonbusiness employers, by contrast, are least likely to allow sick leave to be used to care for sick children, with fewer than one third of such employers permitting it.

Job-sharing and part-time employment have been advocated by groups concerned about child care issues as a means of easing child care burdens. One recent study indicated that 41 percent of working women surveyed, including 51 percent of managerial and professional women, would prefer part-time to full-time work if they had enough money to live on. Little research is available on the prevalence of job-sharing.

The Women's Bureau of the U.S. Department of Labor has noted that employer policies "often discourage employees from receiving or making personal calls on the job." Parents' stress about their children can be reduced, according to a Women's Bureau report, if employers establish policies allowing parents to receive phone calls at work for family problems, "not just dire emergencies, and can make calls to their children or babysitter." No formal data on the existence of such policies are available. According to Mike Romig, such policies are more likely to exist informally than to be set down in writing. "While you cannot document that that benefit is provided, I can assure you that with official sanction or not, it does exist," Romig comments. "The latchkey kids are calling mother or father to check in."

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APPENDIX A

INTERNAL REVENUE SERVICE RULINGS ON CHILD CARE

1. Internal Revenue Service Proposed Regulations on Tax Treatment of Cafeteria Plans (May 7, 1984) (Excerpts)

Q: What must the written cafeteria plan document contain?

A: The written document embodying a cafeteria plan must contain at least the following information: (i) a specific description of each of the benefits available under the plan, including the periods during which the benefits are provided (i.e., the periods of coverage), (ii) the plan's eligibility rules governing participation, (iii) the procedures governing participants' elections under the plan, including the period during which elections may be made, the extent to which elections are irrevocable, and the periods with respect to which elections are effective, (iv) the manner in which employer contributions may be made under the plan, such as by salary reduction agreement between the participant and the employer or by nonelective employer contributions to the plan, (v) the maximum amount of employer contributions available to any participant under the plan, and (vi) the plan year on which the cafeteria plan operates.

In describing the benefits available under the cafeteria plan, the plan document need not be self-contained. For example, the plan document may include by reference benefits established under other "separate written plans," such as coverage under a qualified group legal services plan (section 120) or under a dependent care assistance program (section 129), without describing in full the benefits established under these other plans. But, for example, if the plan offers different maximum levels of coverage under a dependent care assistance program, the descriptions must specify the available maximums. In addition, an arrangement under which a participant is provided with coverage under a dependent care assistance program for dependent care expenses incurred during the period of coverage up to a specified amount (e.g., $500) and the right to receive, either directly or indirectly in the form of cash or any other benefit, any portion of the specified amount that is not reimbursed for such expenses will be considered a single benefit and must be fully described as such in the plan document. This also is the case with other benefits, such as coverage under an accident or health plan and coverage under a qualified group legal services plan.

Q: May employer contributions to a cafeteria plan be made pursuant to a salary reduction agreement between the participant and employer?

A: Yes. The term "employer contributions" means amounts that have not been actually or constructively received (after taking section 125 into account) by the participant and have been specified in the plan document as available to a participant for the purpose of selecting or "purchasing" benefits under the plan. A plan document may provide that the employer will make employer contributions, in whole or in part, pursuant to salary reduction agreements under which participants elect to reduce their compensation to forgo increases in compensation and to have such amounts contributed, as employer contributions, by the employer on their behalf. A salary reduction agreement will have the effect of causing the amounts contributed thereunder to be treated as employer contributions under a cafeteria plan only to the extent the agreement relates to compensation that has not been actually or constructively received by the participant as of the date of the agreement (after taking section 125 into account) and, subsequently, does not become currently available to the participant. In addition, a plan document also may provide that the employer will make employer contributions on behalf of participants equal to specified amounts (or specified percentages of compensation) and that such nonelective contributions will be available to participants for the selection or purchase of benefits under the plan.

Q: What requirements apply to participants' elections under a cafeteria plan?

A: A plan is not a cafeteria plan unless the plan requires that participants make elections among the benefits offered under the plan. A plan may provide that elections may be made at any time. However, benefit elections under a cafeteria plan should be made in accordance with certain guidelines in order for participants to qualify for the protections of the section 125 exception to the constructive receipt rules. An election will not be deemed to have been made if, after a participant has elected and begun to receive a benefit under the plan, the participant is permitted to revoke the election, even if the revocation relates only to that portion of the benefit that has not yet been provided to the participant. For example, a plan that permits a participant to revoke his election of coverage under a dependent care assistance program or of coverage under an accident or health plan after the period of coverage has commenced will not be a cafeteria plan. However, a cafeteria plan may permit a participant to revoke a benefit election after the period of coverage has commenced and to make a new election with respect to the remainder of the period of coverage if both the revocation and new election are on account of and consistent with a change in family status (e.g., marriage, divorce, death of spouse or child, birth or adoption of child, and termination of employment of spouse).

Q: How are the specific rules of section 129, providing an income exclusion for dependent care assistance provided under a dependent care assistance program, to be applied when coverage under a dependent care assistance program is offered as a benefit under a cafeteria plan?

A: Section 129(a) provides an employee with an exclusion from gross income both for employer-funded coverage under a dependent care assistance program and for amounts paid or incurred by the employer for dependent care assistance provided to the employee if the amounts are paid or incurred under a dependent care assistance program. A program under which participants receive reimbursements of dependent care expenses up to a specified amount and are entitled to receive, in the form of any other taxable or nontaxable benefits, any portion of the specified amount not used for reimbursement is to be treated as a single benefit that is not a dependent care assistance program within the scope of section 129. Thus, dependent care assistance provided under a cafeteria plan will be treated as provided under a dependent care assistance program only if, after the participant has elected coverage under the program and the period of coverage has commenced, the participant does not have the right to receive amounts under the program other than as reimbursements for dependent care expenses. This is the case without regard to whether coverage under the program was purchased with contributions made at the employer's discretion, at the participant's discretion, or pursuant to a collective bargaining agreement. For example, assume a cafeteria plan allows participants to elect to receive, for a particular plan year, either the right to reimbursements of dependent care expenses incurred during the year up to $2000 or a cash benefit of $2000. If the participant elects the right to receive reimbursements of dependent care expenses, the reimbursements will not be treated as made under a dependent care assistance program if, after the period of coverage has commenced, the participant has the right to revoke his election of this benefit and instead to receive the cash or if, under the terms of the program itself, the participant is entitled to receive, in the form of cash (e.g., routine payment of salary) or any other benefit, any amounts not reimbursed for dependent care provided during the period of coverage. Arrangements formally outside of the cafeteria plan that provide for the adjustment of a participant's compensation or a participant's receipt of any other benefits on the basis of the assistance or reimbursements received by the participant will be considered in determining whether a dependent care benefit is a dependent care assistance program under section 129.

Moreover, in order for dependent care assistance to be treated as provided under a dependent care assistance program eligible for the section 129 exclusion, the care must be provided to or on behalf of the participant during the period for which the participant is covered by the program. For example, if a participant elects coverage for a plan year under a dependent care assistance program that provides for the reimbursement of dependent care expenses, only reimbursements for dependent care expenses incurred during that plan year will be treated as having been provided under a dependent care assistance program within the scope of section 129. For purposes of this rule, dependent care expenses will be treated as having been incurred when the dependent care is provided, and not when the participant is formally billed, charged for, or pays for the dependent care. Also, for purposes of this rule, expenses that are incurred before the later of the date the program is in existence and the date the

participant is enrolled in the program will not be treated as having been incurred during the period for which the participant is covered by the program. Similarly, if the dependent care assistance program furnishes the dependent care in kind (e.g., under an employer-maintained child care facility), only dependent care provided during the plan year of coverage will be treated as having been provided under a dependent care assistance program within the scope of section 129.

In addition, in order for dependent care assistance under a cafeteria plan to be treated as provided under a dependent care assistance program eligible for the section 129 exclusion, the plan may not operate in a manner that enables participants to purchase coverage under the program only for periods during which the participants expect to receive dependent care assistance. If the period of coverage under a dependent care assistance program offered by a cafeteria plan is twelve months (or, in the case of a cafeteria plan's initial plan year, at least equal to the plan year) and the plan does not permit a participant to select specific amounts of coverage, reimbursement, or salary reduction for less than twelve months, the plan will be deemed not to operate to enable participants to purchase coverage only for periods during which dependent care assistance will be received. See Q&A-8 regarding the revocation of elections during the period of coverage on account of changes in family status.

Finally, if coverage under a dependent care assistance program is a benefit offered under a cafeteria plan, the rules of section 129 will determine the status of the benefit as a taxable or nontaxable benefit. As a result, coverage under a dependent care assistance program in a cafeteria plan will be nontaxable for a plan year only if, among other requirements, the principal shareholder and owner discrimination test contained in section 129(d)(4) is satisfied with respect to employer contributions actually used to provide participants with dependent care assistance during the plan year. In addition, amounts paid or incurred by the employer under a dependent care assistance program are excludable from gross income only to the extent that these amounts do not exceed the lesser of the participant's earned income or the participant's spouse's earned income.

Rules similar to the rules applicable to dependent care assistance programs apply with respect to coverage under a qualified group legal services plan (section 120) offered as a benefit under a cafeteria plan.

2. Revenue Ruling 73-348 (Aug. 27, 1973)

Advice has been requested whether certain expenditures made by an employer, under the circumstances described below, are deductible under Section 162 of the Internal Revenue Code of 1954.

The taxpayer, a corporation engaged in the manufacturing business, entered into an agreement with an established day care center to provide child care for pre-school children of its factory employees.

The stated purpose of the taxpayer in providing the availability of the day care center is (1) to provide an employee with a place to send his or her child while

at work knowing that the child is receiving proper care, (2) to reduce absenteeism, increase productivity, and reduce company training costs, and (3) to reduce employee turnover.

Section 162 of the Code allows as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business. Section 1.162-10 of the Income Tax Regulations provides, in part, that amounts paid or accrued within the taxable year for recreational, welfare, or similar benefit plans are deductible under section 162(a) of the Code, if they are ordinary and necessary expenses of the trade or business.

In the instant case the amounts paid by the taxpayer to the day care center are directly related to its business and are, accordingly, ordinary and necessary business expenses deductible under section 162 of the Code.

3. Private Letter Ruling 8310037 (Dec. 6, 1982)

Dear _____:

This is in response to a letter dated _____ sent on your behalf by your authorized representative in which a ruling was requested under section 162(a) of the Internal Revenue Code. X corporation proposes to sponsor a dependent care assistance program for its employees pursuant to a dependent care assistance plan ("Plan") qualifying under section 129 of the Code.

Under the Plan, X will establish either its own day care facility or will enter into an agreement with independent day care facilities to provide dependent care assistance to dependents of all eligible employees. X will pay all costs to maintain and supervise its own facility, or, in the case of an independent facility, will reimburse the facility for each employee's dependent care expenses based upon proof of attendance. X will also seek professional, managerial and consultant services to provide assistance in the selection of suitable dependent care facilities and to maintain adequate books and records.

The business purpose of the Plan is to provide dependent care assistance to all eligible employees in order to reduce employee absenteeism, and provide additional work incentive. By reducing the financial burden imposed on employees who must rely on day care assistance for their dependents, X stands to benefit through increased productivity and quality employee performance.

Section 129 of the Code provides that gross income of an employee does not include amounts paid or incurred by the employer pursuant to a plan for dependent care assistance.

Section 162(a) of the Code provides, in part, that there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business.

Section 1.162.10 of the Income Tax Regulations provides, in part, that amounts paid or incurred within the taxable year for dismissal wages, unemployment benefits, guaranteed annual wages, vacations, or a sickness, accident, hospitalization, medical expenses, recreational, welfare, or similar benefit plan are

deductible under section 162(a) if they are ordinary and necessary expenses of the trade or business. However, except as provided in paragraph (b) of this section (certain negotiated plans), such amounts shall not be deductible under section 162(a) if, under any circumstances, they may be used to provide benefits under a stock bonus, pension, annuity, profit-sharing, or other deferred compensation plan of the type referred to in section 404(a).

In Rev. Rul. 73-348, 1973-2 C.B. 31, a corporation's payment to a day care center to provide care for its employees' preschool children while they were at work directly related to the corporation's business and thus was deductible under section 162 of the Code.

The expenses incurred in the implementation and maintenance of a dependent care assistance plan under section 129 of the Code directly relate to the business of X. Therefore, assuming the plan qualified under section 129, the amounts X expends under the Plan including professional and management fees are deductible under section 162(a) of the Code.

No opinion is expressed as to the tax treatment of the above transaction under the provisions of any other section of the Code and regulations which may be applicable thereto or the tax treatment of any conditions existing at the time of, or effects resulting from the transaction which are not specifically covered by this ruling.

A copy of this letter should be attached to the appropriate income tax returns for the taxable year in which the transaction in question is consummated.

This ruling is directed only to the taxpayer who requested it.

Section 6110(j)(3) of the Code provides that it may not be used or cited as precedent.

Pursuant to the power of attorney on file, a copy of this letter is being sent to your authorized representative.

Sincerely yours,
s/John L. Crawford
Chief, Corporation Tax Branch

APPENDIX B

UNION DOCUMENTS ON CHILD CARE

1. Model Contract Language drafted by Carol Haddad, Michigan State University School of Labor and Industrial Relations (1979)

Articie _____

Child Care

The employer, recognizing the needs of working parents, agrees to the establishment of a "Child Care Committee" consisting of an equal number of employee and employer representatives responsible for researching and developing a child care facility. Provisions will be made to allow Committee members to perform their functions within reason during working hours and without loss of pay.

The "Child Care Committee" shall complete its research and develop a model for a child care facility no later than three (3) months after the effective date of this agreement. Such facility will become operational no later than six (6) months after the effective date of this agreement. These time limits may be waived by mutual consent of the parties to this agreement. The Committee shall be responsible for the administration of the child care facility.

The employer will provide initial financing of the costs of such a facility; employees whose children are enrolled will contribute a minimal amount of $_____ weekly towards maintenance costs, with the employer absorbing the rest. Child care facilities will meet minimum state licensing requirements, and, where appropriate, Federal Interagency Day Care Requirements with respect to staffing ratios, health and safety, and other pertinent areas.

(Alternative on Operation: The union shall have sole responsibility for the administration of the child care facility.)

(Alternative on Financing: The employer shall provide total financing for all initial and subsequent operating costs.)

2. Side Letter on Child Care in Master Agreement between Rockwell International Corporation and the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America (UAW)

June 15, 1981
Mr. Raymond Majerus
Secretary-Treasurer and Director
National Aerospace Department
UAW
8000 East Jefferson Avenue
Detroit, Michigan 48214

Dear Mr. Majerus:

We propose to establish a joint Union-Management study committee to investigate the availability of adequate child care facilities within the communities surrounding our plants.

The makeup of today's workforce includes a large number of single parents as well as a growing number of married parents whose spouses are also employed. In most cases, availability of child care facilities are a necessity.

The Union-Management study committee will work together in reviewing the adequacy and quality of nearby child care centers as well as developing their availablity for all shifts.

If mutually agreed to, we will jointly explore the possibility of soliciting funding from the federal government, or from interested businesses, charitable or community groups.

Our goal will be to establish educational programs in the existing child care centers, and accommodate the needs of working parents. For example operating hours, cost, location, referral service, etc.

Child care will be determined through a questionnaire and/or survey completed by employees within 90 days after the signing of this Agreement.

Very truly yours,

R.W. Brown
Director
Industrial Relations

3. Provisions in 1983 Mandatory Bargaining Program and Bargaining Recommendations of The Newspaper Guild Relating to Child Care

A. Maternity and Paternity Leaves

Mandatory Bargaining Program: "Provision shall be made for maternity leave of at least four months with pay and an unpaid leave in addition of two years or more, on the employee's request. No employee shall be required to take a leave of absence, nor shall an employee's job duties or working conditions be altered without the employee's consent, on account of pregnancy; nor shall there be any penalty for pregnancy. If leave is taken, the timing and duration shall be at the discretion of the employee. Employees returning from such leave shall be reinstated in their jobs at the salary they would have received had their employment with the employer been continuous, with full credit toward severance pay accrual, experience rating, and other length-of-service benefits. Employees at expiration of maternity leave electing not to return to their position shall receive full severance pay.

"Provision shall be made for paternity leave of at least four months with pay and an unpaid leave in addition of two years or more, on the employee's request. If leave is taken, the timing and duration shall be at the discretion of the employee. Employees returning from such leave shall be reinstated in their jobs at the salary they would have received had their employment with the employer been continuous, with full credit toward severance pay accrual, experience

rating, and other length-of-service benefits. Employees at expiration of paternity leave electing not to return to their position shall receive full severance pay. "This section applies to both natural and adoptive parents."

Bargaining Recommendations: "Locals should seek provisions allowing employees, at their option, to work schedules reduced by as much as 50 percent with no loss in benefits, for as long as one year after the addition of children to their households or upon returning from maternity or paternity leave."

B. Family Emergencies

Mandatory Bargaining Program: "Employees shall be granted leaves with pay for family emergencies."

C. Child Care

Mandatory Bargaining Program: "The employer will pay the employee's cost of day/night care for both preschool children and those who need after-school care. The employee may choose the type of care and/or facility to be used."

Bargaining Recommendations: "The Guild and the employer should agree on the establishment and administration of adequate employer financed child-care centers. The employer should provide the necessary study funds for the Guild to determine the need for required supervision and care of children, including both preschoolers and those who need after-school care. Cooperation with other unions in the establishment of child-care centers is urged where appropriate. Employee-parent control and voluntary participation in such centers is basic to their establishment, which shall be an employer responsibility."

APPENDIX C

SAMPLE CONTRACT FOR CHILD CARE INFORMATION SERVICE OF CHILD CARE, INC., NEW YORK

This agreement is entered into this _____ day of _____ between Child Care, Inc., and _____.

WHEREAS Child Care, Inc., is ready and able to perform the services outlined below and _____ is desirous of receiving such services.

NOW THEREFORE the parties mutually agree as follows:

ARTICLE I
SERVICES TO BE PERFORMED BY CHILD CARE, INC.

Child Care, Inc. will:

1) Assist any employee who calls to inquire about locating appropriate child care services as outlined in the attached Corporate Membership information sheet. The employee will receive consultation by phone and will be mailed appropriate written materials. Any employee can call as often as needed.
2) Follow-up with each parent to find out what child care arrangements were made and determine, if necessary, specific difficulties in locating appropriate child care.
3) Furnish _____ with an interim report after six months and a final utilization report after 12 months. Each report will summarize by job category or other appropriate designation the child care needs of each of the employees who avail themselves of Child Care, Inc.'s services. The final report will include Child Care, Inc.'s assessment of particular child care needs of _____ employees.
4) Conduct a workshop for parents on using the Child Care Information Service.
5) Advise _____ on how to develop appropriate written materials advertising Child Care, Inc.'s services to _____ employees.

ARTICLE II
OBLIGATIONS OF _____

_____ will:

1) Pay Child Care, Inc. _____ in two equal payments. The first payment of _____ is due upon execution of this agreement. The second is due on _____.
2) Develop information describing the services of Child Care, Inc. to all employees.
3) Designate a program liaison for this project.

ARTICLE III
PERIOD OF PERFORMANCE AND RENEWAL

The period of performance of the agreement shall commence on _____ and shall end on _____. Two months prior to the conclusion of this agreement, Child Care, Inc. will present a work plan for the next contract year for review by _____.

ARTICLE IV
PERSONNEL

All parent calls will be handled by Child Care, Inc.'s Parent Counselors under the direction of _____, the Coordinator of Child Care, Inc.'s Child Care Information Service. _____, the Coordinator of Child Care, Inc.'s Employers and Child Care project, will be responsible for overall coordination of the program and will act as Child Care, Inc.'s liaison with _____.

Child Care, Inc.
By _____

_____
By _____

APPENDIX D

State Tax Laws

California and Connecticut have laws dealing with the tax treatment of child care expenditures. The text of these state documents follows

CALIFORNIA

Sec. 24371.5. of the California Revenue and Taxation Code

Depreciation deduction for employers establishing child development facility.

It is the intent of the Legislature that child development services be established in locations which make it convenient for eligible families who are employed, to be employed or who are enrolled in employment training programs.

Owners of places of employment who establish facilities pursuant to Division 12.5 (commencing with Section 16700) of the Education Code and who allow for programs to be established pursuant to Division 12.5 (commencing with Section 16700) of the Education Code may elect, in accordance with regulations prescribed by the Franchise Tax Board, to compute the depreciation deduction provided by subdivision (a) of Section 24349 attributable to such facilities under the straight-line method using a useful life of 60 months and no salvage value. Such method shall be in lieu of any other method of computing the depreciation deduction under subdivision (a) of Section 24349 and shall be allowed only for such part of facilities which are certified by the State Department of Education as being used for child development services pursuant to Division 12.5 (commencing with Section 16700) of the Education Code.

CONNECTICUT

Sec. 12-217h, Sec. 12-258d, and Sec. 12-265d of the Connecticut General Statutes Annotated

Tax credit for expenditures to establish day care facilities for children of employees.

There shall be allowed a credit for any taxpayer against the tax imposed under this chapter or chapter 208 or 211 for any income year, in an amount equal to twenty-five percent of total expenditures paid or incurred by such taxpayer in such income year for planning, site preparation, construction, renovation or acquisition of facilities for purposes of establishing a child day care facility to be used primarily by the children of such taxpayer's employees and equipment installed for permanent use within or immediately adjacent to such facility, including kitchen appliances, to the extent that such equipment or appliances are necessary in the use of such facility for purposes of child day care, provided (1) such facility is operated under the authority of a license issued by the commissioner of health services in accordance with sections 19a-77 to 19a-87, inclusive, (2) such facility is operated without profit by such taxpayer related to any charges imposed for the use of such facility for purposes of child day care

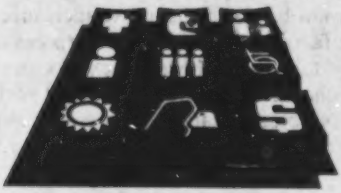
and (3) the amount of tax credit allowed any taxpayer under the provisions of this section for any income year may not exceed ten thousand dollars. If two or more taxpayers share in the cost of establishing such a facility for the children of their employees, each such taxpayer shall be allowed such credit in relation to the respective share, paid or incurred by such taxpayer, of the total expenditures for the facility in such income year. If the amount of such tax credit allowed any taxpayer for any income year exceeds the amount of tax, without reduction for such tax credit, any balance of the credit remaining may be claimed against the tax imposed for any of the three income years next succeeding, provided any such balance of credit may not be claimed for any such succeeding income year in which the child day care facility is operated for purposes of child day care for less than six months. Any taxpayer allowed such tax credit against the tax imposed under any of said chapters shall not be allowed such credit under more than one of said chapters. No credit shall be allowed for any taxpayer who has been granted a tax credit for the same year pursuant to section 12-634.

APPENDIX E

FLEXIBLE BENEFIT PROGRAM OF COMERICA, INC.

Comerica

CustomComp



Volume 1, Issue 4 August 26, 1982

TWO NEW BENEFITS ADD MORE STRENGTH TO CUSTOMCOMP

Two new and attractive benefits are being added to the CustomComp program – Healthcare Reimbursement and Childcare Reimbursement. These benefits add strength to CustomComp because they are specifically designed to respond to the needs of our changing society.

Today many parents work outside the home, so families with young children often depend on childcare services. The cost of childcare usually takes a large portion of the family budget, and only a small part of the cost is tax deductible.

Another sizable and often unexpected part of a family budget goes to pay for healthcare services not covered by a medical or dental plan. These expenses include such services as eye examinations, eyeglasses, hearing aids and physician prescribed weight loss programs.

Now Comerica is making it possible for you to set up special accounts and pay healthcare and childcare expenses through the CustomComp program. The information in this newsletter will tell you what the Healthcare Reimbursement and Childcare Reimbursement Plans have to offer, how they operate, and how you can make them part of your personal CustomComp program.

Healthcare Reimbursement Plan

There are many ways the CustomComp Healthcare Reimbursement Plan can help you pay health care expenses. For example, let's say you select medical coverage that requires you to pay an annual $100 deductible. After you pay the deductible, the medical plan pays 80% of the covered medical expenses, and you have to pay the remaining 20%. If your major medical expenses for the year total $3,000, the amount you would have to pay would be $680. That's a lot of money out of your own pocket! But you could use the CustomComp Healthcare Reimbursement Plan to pay your share of those medical expenses.

You can also use the Healthcare Reimbursement Plan to pay for healthcare services that aren't covered by any of your other Comerica benefit plans. For example, you could use the Plan to pay for eye examinations, eyeglasses, hearing aids. You can even use the Plan to pay the cost of weight loss or smoke-enders programs if they are prescribed by your doctor. In fact, any healthcare expense that would qualify as a deduction on your income tax form will qualify for reimbursement, as long as the expense isn't paid by any other benefit plans.

Comerica

How The Plan Works

If you decide to participate in the Healthcare Reimbursement Plan, an account will be set up. You decide how much you want to deposit to your account—anywhere from as little as $26 to as much as $1,000 annually. Your deposit can come from your CustomComp Benefit Credits or from salary you convert to Salary Credits, or from both. In general, your deposits will be allocated to your account on a payroll period basis. This means that if you decide to deposit $260 annually to your Healthcare Reimbursement Plan, you will have $10 worth of credits in your account after your first pay, $50 after your fifth pay and so forth.

To be reimbursed, save up your paid healthcare bills and submit them once a year, a few times a year, or whenever the total bills exceed $25. All you will need to do to be reimbursed is to submit the claim form and evidence that you have paid the expense.

At the beginning of the year, you will receive a statement that shows you how much you have decided to deposit in your account for the total year and the rate at which deposits will be made to your account. To help you keep track of the activity in your account, your pay advice will show you the amount deposited each pay, the current balance, and the amount of reimbursements (if any).

The Plan Can Save You Money

The Healthcare Reimbursement Plan not only can help you pay for healthcare expenses but also can save you money. Every time you pay healthcare expenses out of your own pocket, you pay those bills in after-tax dollars—money you received as pay and from which income taxes and Social Security taxes were deducted. But the money you decide to deposit in your Healthcare Reimbursement Plan comes from before-tax dollars—money that isn't subject to income taxes or Social Security taxes. By paying your healthcare expenses through the CustomComp program, you are actually reducing the amount you pay in taxes.

Let's assume that you need to buy a pair of prescription eyeglasses that cost $100. If you use after-tax money, it really costs you $125 (assuming you're at a marginal tax rate of 25%). You earn $125, $25 is taken out for taxes, and $100 is left to spend on the glasses.

If you bought the same pair of eyeglasses with Salary Credits under the CustomComp program, it would only cost you $100. You save $25 because your taxes are reduced. Here's why: When you convert $100 of pay to Salary Credits your taxable income (W-2) is reduced by $100. At a 25% marginal rate, reducing your income by $100 means you reduce your taxes by $25.

Is the Healthcare Reimbursement Plan a benefit you need? It all depends on how likely it is you will have to spend money out of your own pocket for healthcare services. Give the Healthcare Reimbursement Plan serious consideration. It's a good way to protect your budget from those unexpected healthcare expenses—and if you don't use all the money you deposit in your account, it's there waiting for you at the end of the year.

Childcare Reimbursement Plan

Another new benefit is the CustomComp Childcare Reimbursement Plan. This benefit is designed to help working parents pay the cost of childcare services.

The following requirements have to be met to qualify for reimbursement from the Plan:

- The child (or children) must be under 15 years old.
- The childcare services can be provided inside or outside your home, but not by someone who is your dependent for tax purposes (for example, an older child).
- If the services are provided by a day-care facility that cares for more than six children at one time, it has to be a state licensed day-care center.
- The childcare services have to be necessary in order for you or, if you are married, for you and your spouse to be employed.
- The amount of money to be reimbursed cannot be more than your annual income or your spouse's annual income—whichever is lower.

How The Plan Works

The Childcare Reimbursement Plan works like the Healthcare Reimbursement Plan. If you decide to participate in the Plan, a Childcare Reimbursement account will be established in your name. You decide how many credits you want to deposit in your account. Your deposit can come from your CustomComp Benefit Credits, salary you convert to Salary Credits, or from both. The money will be deposited in your account on a payroll period basis, and your pay advice will show you the balance of your account.

Initially, you will be asked to complete a form on your dependents. Later, to be reimbursed for childcare costs, all you will need to do is submit a claim form and proof that you have paid the childcare expenses.

The Childcare Plan Can Save You Money Too!

Even if the lion's share of the money you deposit in your Childcare Reimbursement account comes from salary you have converted to Salary Credit, the Plan can save you money.

If you are paying for childcare costs now, you are paying in after-tax dollars. If you decide to pay childcare costs through the CustomComp program, you will be paying in before-tax dollars. What this means is that the money you convert from your salary to your Childcare Reimbursement Plan account is money that you won't pay income or Social Security taxes on. In a nutshell, paying for childcare costs through CustomComp gives you more money because it reduces the amount of taxes Uncle Sam takes from your paycheck because the money is not reported on your W-2. Here's an example:

Comerica

John and Sue Thompson have two children. Both John and Sue have full-time jobs outside the home. Their two children go to a day-care center every day. John and Sue pay for the day-care services out of Sue's pay after taxes have been taken. The cost of the day-care service is $4,800 per year. Sue (assuming 25% tax bracket) has to earn $6,400 to pay the $4,800 bill because of taxes. Normally, when Sue and John file their taxes, they will get a credit equal to $960. So:

+4,800 in day-care expenses
+1,600 in taxes
− 960 in tax credit
$5,440 actual cost

But with CustomComp, Sue can save money. Sue can convert salary to Salary Credits and deposit them to the Childcare Reimbursement Account, then make a withdrawal to be reimbursed for the day-care services. By doing this, she pays no taxes on the credits used for day-care. Here's what Sue will pay:

+4,800 in day-care expenses
− 0 in taxes
0 in tax credit
$4,800 actual cost

By paying the CustomComp way, Sue actually saves $640 a year!

Paying for childcare costs out of your own pocket? If you are, switching to paying the CustomComp way makes sense—good dollar sense. And, should you have money left in your Childcare Reimbursement Plan Account at the end of the year, you can leave it there to use next year, take it in cash (and pay taxes on the amount), or you may be able to transfer the money to your Capital Accumulation Plan account.

CustomComp Takes Shape

The true measure of any benefits program is how well it responds to the needs of people. By now you can tell that CustomComp is a benefits program designed to be responsive to your needs. It offers you CAP, a way to save and invest money while reducing your taxable income. It offers you several excellent medical plans. It offers you a benefit plan that will cover healthcare expenses you've been paying out of your own pocket. It offers you a benefit plan that can reduce the amount you pay in childcare costs. And, in the next newsletter, we can see how CustomComp can offer you even more—new life insurance and disability insurance coverages that can provide extra security for you and your family.

CustomComp—it's shaping up as a benefits program that can measure up to your needs.

CustomComp HOTLINE 222-5555

Question:
Why would anyone choose a Catastrophic Medical Plan?

Answer:
Many employees currently are covered by two medical plans—One provided by Comerica and another provided by their spouse's employer. Employees in such situations might change to the Comerica Catastrophic coverage to free up credits to be used in another area, such as childcare, and they will still have good medical coverage through their spouse's employer's plan.

BEST COPY AVAILABLE

APPENDIX F

NEW YORK STATE POLICY ON MATERNITY AND CHILD-REARING LEAVE FOR EMPLOYEES

This memorandum revokes and replaces the August 3, 1973 memorandum from the Civil Service Commission regarding maternity leave effective immediately.

Pregnant employees may be asked or encouraged to report the existence of pregnancy, but they may not be required to do so. Where, in the opinion of the appointing officer, the nature of the duties performed may be particularly hazardous or burdensome during pregnancy, this should be pointed out in the letter of appointment and such employees should be urged to advise their supervisors of any pregnancy. In any case where the appointing authority believes the employee is unable to perform the duties of the position because of pregnancy, the employee may be required to undergo a medical examination, at the expense of the department or agency, by a physician designated by the appointing authority. A pregnant employee who is determined to be medically disabled from the performance of job duties must be treated the same as any other employee similarly disabled insofar as disability leave benefits are concerned.

Sick leave and sick leave at half-pay may be used only during a period of medical disability. Under the State's policy, disabilities arising from pregnancy or childbirth are treated the same as other disabilities in terms of eligibility for or entitlement to sick leave with and/or without pay, extended sick leave and sick leave at half-pay. Generally, the period of such disability is deemed to commence approximately four weeks prior to delivery and to continue for six weeks following delivery. While doctor's certificates may be required for any period of disability, agencies should request detailed medical documentation whenever disability is claimed to commence prior to or to extend beyond the period of disability described above.

An appointing authority may approve an employee's request for leave without pay during pregnancy and prior to the onset of any medical disability as a matter of discretion. Absences during pregnancy and following childbirth may be charged to vacation, overtime or personal leave irrespective of whether the employee is disabled. While the use of annual leave, overtime and personal leave accruals prior to the onset of medical disability is discretionary with the appointing authority, employees must be permitted to use these accruals during a period of medical disability after sick leave with pay has been exhausted.

Employees, regardless of sex, are entitled to leave without pay for child care for up to seven months following the date of delivery.

For purposes of computing the seven month period of mandatory leave, periods during which the employee was absent for "disability" or use of leave credits are included; the mandatory seven month period is not extended by the granting of disability leave or the use of accrued leave. During a period of leave for child care, employees shall be permitted, upon request, to use annual leave, personal leave and overtime credits before being granted leave without pay. As is the

case with other mandatory leaves without pay (e.g., military leave), agencies shall not require that employees exhaust all appropriate leave credits prior to being granted leave without pay for child care. Sick leave or sick leave at half-pay may be used only during a period of medical disability. Except in the case of continuing medical disability, any leave of absence beyond the seventh month following childbirth shall be at the discretion of the appointing authority as provided in Sections 22.1 and 29.1 of the Attendance Rules. An employee who requests a leave for child care of less than seven months is entitled to have such leave extended, upon request, up to the seven month maximum and may, at the discretion of the appointing authority, have such leave extended beyond the seventh month. In certain situations, an employee may not be permitted to return from such leave until the expiration of the period that such employee requested and was granted. Generally, such restrictions on early return are limited to situations where such return would be disruptive of a project or where the termination of a replacement would occur.

During the seven month period following childbirth, the granting of leave for child care is mandatory upon request from either parent. If both parents are State employees, leave for child care is mandatory for one parent at a time and the parents may elect to split the mandatory seven month leave into two separate blocks of leave with each parent entitled to one continuous period of leave but not to exceed a combined total of seven months of leave and not to extend beyond seven months from the date of delivery.

Agencies may, in their discretion, approve other arrangements for shared leave including concurrent leave and may, as a matter of discretion, extend leave for child care beyond the mandatory seven months. Furthermore, while one parent is absent on leave for child care, agencies continue to have the discretion to approve requests from the other parent for periods of vacation or personal leave, and for family sick leave in accordance with Sections 21.3(f) and 28.3(f) of the Attendance Rules.

Temporary, provisional and probationary employees without any permanent status are entitled to leave with full pay and/or without pay as described above. However, these employees are not eligible for sick leave at half-pay nor are they entitled to leave beyond that date when their employment would otherwise terminate (e.g., temporary item abolished, permanent incumbent restored to item, certification of eligible lists, etc.). In general, the State's policy on leave for pregnancy, childbirth and child care shall not be construed to require extension of any employment (permanent, permanent contingent, temporary, or provisional) beyond the time it would otherwise terminate.

DATED: January 28, 1982.

APPENDIX G

MEMORANDUM OF AGREEMENT ON ANTICIPATED DISABILITY PROGRAM (ADP) INCLUDED IN 1983 CONTRACT BETWEEN COMMUNICATIONS WORKERS OF AMERICA AND AMERICAN TELEPHONE AND TELEGRAPH COMPANY (EXCERPTS)

A. Definition

This Anticipated Disability Program, also referred to herein as ADP, is designed to provide sickness disability payments to eligible employees on Leave of Absence for Anticipated Disability for certified anticipated disabilities of over seven calendar days duration which are expected to commence during the Leave. Disability payments under this program will be classified as sickness disability benefits and will be administered under the Benefit Plan.

In adddition, the ADP provides a Leave of Absence for Care of Newborn Children.

The conditions of either Leave described above will be specified by the Company, consistent with this Agreement pursuant to Section 8, Paragraph 5 of the Benefit Plan.

B. Eligibility

Leave of Absence for Care of Newborn Children — Employees who have just completed a period of disability associated with childbirth and which disability period did not extend beyond 6 months following delivery qualify for this Leave. Employees who have not completed a disability associated with childbirth must provide satisfactory evidence of a direct association with newborn children to qualify for the Leave. "Direct association" means either a natural or adoptive father or mother and "newborn children" means children under six month of age on the day prior to the day the Leave for Care of Newborn Children is to commence.

C. Period of Leaves of Absence

Leave of Absence for Care of Newborn Children -- This Leave may be granted for an initial period of up to six months. The starting date will generally be at the end of the period of (i) certified anticipated disability while on Leave or (ii) sickness disability benefits under the Benefit Plan, which period was associated with childbirth. In the event that there is no previous period of disability associated with childbirth or such previous period was followed by a period of work, the starting date of the Leave, with the approval of the Company, will be at such time an employee who meets the eligibility requirements for such a Leave requests.

Maximum Periods of Leaves — In any case, any period of leave or leaves granted hereunder shall not extend beyond the later to occur of (i) twelve months from

the first day of such leave or leaves, (ii) the end of the disability period under the Anticipated Disability Leave or extensions thereof, or (iii) six months from date of delivery of the newborn child.

D. Disability Payments While on Leave of Absence For Anticipated Disability

All employees with at least six months' net credited service at the date the Leave of Absence for Anticipated Disability commences and who provide satisfactory medical certification of anticipated disability for a period expected to exceed seven calendar days will be entitled to up to 52 weeks of disability payments for the period of actual disability for which the Anticipated Disability Leave was granted, commencing with the eighth day of such disability in accordance with the following schedule:

If term of employment on date Leave of Absence for Anticipated Disability commences has been six months but less than 2 years — half pay for 52 weeks.

If term of employment on date Leave of Absence for Anticipated Disability commences has been 2 years but less than 5 years — full pay for 4 weeks; half pay for 48 weeks.

If term of employment on date Leave of Absence for Anticipated Disability commences has been 5 years but less than 15 years — full pay for 13 weeks; half pay for 39 weeks.

If term of employment on date Leave of Absence for Anticipated Disability commences has been 15 years but less than 20 years — full pay for 26 weeks; half pay for 26 weeks.

If term of employment on date Leave of Absence for Anticipated Disability commences has been 20 years but less than 25 years — full pay for 39 weeks; half pay for 13 weeks.

If term of employment on date Leave of Absence for Anticipated Disability commences has been 25 years or more — full pay for 52 weeks.

Payment shall be reduced by the amount of other payments made to the employee by the Company for the same disability under any laws or other Company Plans or from any Government Plan for which the Company is taxed.

Payment or non-payment of the first seven days of the anticipated disability shall be determined as if the employees were on the active roll according to existing Labor Agreements and practices.

E. Reimbursement of BME/Dental Insurance Premiums

Basic Medical Expense Plan and Dental Expense Plan (BME/Dental) coverage will be extended to employees on Leaves of Absence for Anticipated Disability or for Care of Newborn Children at employees' expense if they were eligible for such coverage prior to going on Leave. In the event an employee receives disability payments for the anticipated disability while on Leave of Absence for Anticipated Disability, the Company shall reimburse any BME/Dental premiums paid by the employee for the month in which the anticipated disability began. If the employee was covered by a Health Maintenance Organization (HMO) prior to going on Leave, the Company shall reimburse to the employee

that amount of HMO premium paid by the employee, normally paid by the Company, for the month in which the anticipated disability began.

F. Service Credit

Employees granted Leaves of Absence for Anticipated Disability or Leaves of Absence for Care of Newborn Children shall receive service credit for the first 30 days of Leave if they return to work. In addition, employees granted Anticipated Disability Leaves will receive service credit for the period in which they receive disability payments for the anticipated disability while on Leave. If the period of disability payments should fall within the first 30 days of the Leave, only that period of the 30 days prior to the beginning of the anticipated disability period shall be credited in addition to the actual period of disability. There shall be no double crediting of service for the same period. Regardless of the number of leaves or extensions of leave(s) granted hereunder, only one 30 day service credit period will be granted during a twelve-month period.

G. Vacation

Employees will be given the option to take their vacation for which eligible prior to the beginning of Leave.

H. Reinstatement

Leaves of Absence for Care of Newborn Children — Employees granted such Leaves shall be entitled to guaranteed reinstatement to the same job or one of similar status and pay six months following the date of birth of the natural or adopted child. If upon application for reinstatement prior to the end of the 6 month period following delivery a position of like status and pay for which the employee is qualified is not available, reinstatement may be deferred until a position is available, but, in no case shall reinstatement be deferred beyond six months following delivery.

Reinstatement, as provided in this Section H, shall, however, be subject to contract provisions which cover adjustments to the working force that may have occurred during the employee's absence on Leave.

I. Disability While on Active Roll

A Leave of Absence for Anticipated Disability shall not be granted to an active employee certified disabled. In the event an active employee becomes disabled, such employee shall be treated as any other active employee becoming disabled in accordance with the sickness disability provisions of the Benefit Plan. At the end of disability, the employee shall be eligible for a Leave of Absence for care of Newborn Children if such employee otherwise satisfied the eligibility requirements therefor.

APPENDIX H

RESOURCES ON EMPLOYER-SUPPORTED CHILD CARE

Administration for Children, Youth and Families
U.S. Department of Health and Human Services
Washington, D.C. 20210
(202) 755-7762
Lucy C. Biggs, Acting Commissioner
Gerald Regier, Assistant Commissioner
Patricia Divine-Hawkins, Project Director

American Bar Association
1800 M St., N.W.
Washington, D.C. 20036
(202) 331-2250
Howard Davidson, Director, National Legal Resource for Child Advocacy and Protection

American Federation of Government Employees
1226 Southern Avenue, S.E.
Washington, D.C. 20032
(202) 695-5767
Anita Longstreet, National Women's Advisory Representative

Association For Childhood Education International
11141 Georgia Avenue, Suite 200
Wheaton, Md. 20902
(301) 942-2443
Dr. James Packer, Executive Director

Bank Street College of Education
610 W. 112th St.
New York, N.Y. 10025
(212) 663-7200
Eileen Galinsky

Beaver College
Glenside, Pa. 19038
(215) 884-3500
Renée Y. Magid, Assistant Professor, Education Department

California Child Care Resource and Referral Network
320 Judah St., Suite 2
San Francisco, Calif. 94122
(415) 661-1714
Patti Siegel, Executive Director

Catalyst
14 E. 60th Street
New York, N.Y. 10022
(212) 759-9700
Phyllis Silverman, Manager, Corporate Child Care Resource

Center for Public Advocacy Research, Inc.
12 W. 37th Street
New York, N.Y. 10018
(212) 564-9220
Ronald Soloway, Executive Director

Child Care Action Campaign
132 W. 43rd Street
New York, N.Y. 10036
(212) 354-5669
Elinor Guggenheimer, President

Child Care, Inc.
125 W. 109th St.
New York, N.Y. 10025
(212) 864-3310
Nancy Kolbin, Employer's Child Care Project

Child Care Information Network
1006 West Lake St.
Minneapolis, Minn. 55408
(612) 823-7237
Heidi Oxford, Coordinator

Child Care Information Service
330 South Oak Knoll, Suite 26
Pasadena, Calif. 91101
(213) 796-4341
Kathleen Malaske-Samu, Director
Sandra Surud, Consultant
(213) 796-8258

The Child Care Law Center
625 Market Street, Suite 816
San Francisco, Calif. 94105
(415) 495-5498
Carol Stevenson, Staff Attorney

Children at Work, Inc.
569 Lexington Avenue
New York, N.Y. 10022
(212) 758-7428 ext. 239
Barbara Adolf and Karol Rose, Principals

Children's Defense Fund
122 C Street, N.W., Suite 800
Washington, D.C. 20001
(202) 628-8787
Helen Blank, Director of Child Care and Family Support Services

The Children's Foundation
1420 New York Ave., N.W.
Washington, D.C. 20005
(202) 347-3300
Lori Weinstein, Director, Family Day Care Advocacy Project

Community Coordinated Child Care
816 Broadway
Orlando, Fla. 32803
(305) 425-8807
Phoebe Carpenter, Executive Director

The Conference Board
845 Third Avenue
New York, N.Y. 10022
(212) 759-0900
Dana Friedman, Senior Research Fellow, Work and Family Information Center

CSR, Inc.
79 West Monroe St.
Chicago, Ill. 60603
(312) 236-3786
Ann Gilman Dawson, Director

Fairfax County Office for Children
10396 Democracy Lane
Fairfax, Va. 22030
(703) 691-3175
Judith Rosen, Director

High Scope Education Research Foundation
7921 Maryknoll Avenue
Bethesda, Md. 20817
(301) 229-4995
Jenni W. Klein

Maryland Committee for Children
608 Water St.
Baltimore, Md. 21201
(301) 752-7588
Sandy Skolnick, Executive Director

Metropolitan Washington Council of Governments
1875 Eye St.
Washington, D.C. 20006
(202) 223-6800
Patricia Marks, Coordinator, Metropolitan Washington Child Care Network

Montgomery County Department Of Family Resources
101 Monroe St.
Rockville, Md. 20850
(301) 279-1530
Millicent Grant, Early Childhood Coordinator, Division on Children and Youth

National Association for the Education Of Young Children
1834 Connecticut Ave., N.W.
Washington, D.C. 20009
(202) 232-8777
Marilyn Smith, Executive Director

National Black Child Development Institute
1463 Rhode Island Ave., N.W.
Washington, D.C. 20005
(202) 387-1281
Carla Curtis, Executive Director

National Child Day Care Association
1501 Benning Road, N.E.
Washington, D.C. 20002
(202) 397-3800
Helen H. Taylor, Executive Director

National Institute for Latchkey Children and Youth
1700 11th St., N.W.
Washington, D.C. 20034
(202) 229-6126
Lynette Long

National Women's Law Center
1751 N St., N.W.
Washington, D.C. 20036
(202) 872-0670
Shirley J. Wilcher

The Phoenix Institute
352 Denver St.
Salt Lake City, Utah 84111
(801) 532-6190
Suzanne Clow, Director, Business and Child Care Project

The Planning Council
1100 First Virginia Bank Tower
101 St. Paul's Boulevard
Norfolk, Va. 23510
(804) 622-9268
Kathryn Wolfe, Program Coordinator, Children's Services Division

Portland State University
P.O. Box 751
Portland, Ore. 97207
(503) 229-4040
Art Emlen, Director, Regional Research Institute for Human Services

President's Advisory Council on Private Sector Initiatives
Room 134
The White House
Washington, D.C. 20500
(202) 456-6676
Richard Schlaff, Project Coordinator

Select Committee on Children, Youth and Families
(House of Representatives)
Annex 2, Room H2-385
Washington, D.C. 20515
(202) 226-7660
Allan Stone, Staff Director
Ann Rosewater, Deputy Staff Director
Christine Groves-Elliott, Minority Staff Director
(202) 226-7698

Texas Family Institute
11311 Richmond #L107
Houston, Texas 77082
(713) 497-8719
Marie Oser

Washington Child Development Council
2121 Decatur Place, N.W.
Washington, D.C. 20008
(202) 387-0002
Bobbi Blok, Executive Director

Wellesley College
828 Washington St.
Wellesley, Mass. 02181
(617) 431-1453
Laura Lein, Director, Center for Research on Women

Wider Opportunities for Women
1325 G St., N.W.
Washington, D.C. 20005
(202) 638-3143
Barbara Makris, Director of Child Care Programs

Women's Bureau
U.S. Department of Labor
200 Constitution Ave., N.W., Room S-3315
Washington, D.C. 20210
(202) 523-6641
Ruth G. Nadel, Social Science Advisor

Work/Family Directions
200 The Riverway
Boston, Mass. 02215
(617) 734-0001
Gwen Morgan, Co-Director